

GENOVA BURNS LLC

Angelo J. Genova, Esq. (005501979)
 Jennifer Borek, Esq. (041131997)
 Matthew S. Oorbeek, Esq. (073242013)
 494 Broad Street
 Newark, New Jersey 07102
 (973) 533-0777
*Attorneys for Plaintiffs,
 Jersey City Board of Education and
 E.H., a minor, by his guardian ad litem
 Shanna C. Givens*

JERSEY CITY BOARD OF EDUCATION and
 E.H., a minor, by his guardian ad litem,
 SHANNA C. GIVENS,

Plaintiffs,

v.

STATE OF NEW JERSEY, NEW JERSEY
 DEPARTMENT OF EDUCATION, DR.
 LAMONT REPOLLET, in his official capacity as
 Commissioner of Education, NEW JERSEY
 OFFICE OF MANAGEMENT AND BUDGET,
 NEW JERSEY DEPARTMENT OF TREASURY,
 ELIZABETH MAHER MUOIO, in her official
 capacity as New Jersey State Treasurer

Defendants.

SUPERIOR COURT OF NEW JERSEY
 LAW DIVISION: HUDSON COUNTY

DOCKET NO.: HUD-L-

CIVIL ACTION

VERIFIED COMPLAINT

Plaintiffs Jersey City Board of Education (“JCBOE”) and E.H., a minor, by his guardian ad litem Shanna C. Givens, by and through their attorneys Genova Burns LLC, by way of this Verified Complaint, against Defendants State of New Jersey, New Jersey Department of Education (“DOE”), Dr. Lamon Repollet, in his official capacity as Commissioner of Education (“Commissioner”), New Jersey Office of Management and Budget (“OMB”), New Jersey Department of Treasury (“Treasury”), and Elizabeth Maher Muoio, in her official capacity as New Jersey State Treasurer, (collectively, “Defendants”) say:

NATURE OF THE CASE

1. A growing body of evidence demonstrates that when states invest in their public schools and create more equitable school financing systems, student achievement levels rise. Yet for over forty years, the State of New Jersey - which is constitutionally mandated to provide a “thorough and efficient education” to all of its students - has failed its public-school students in poorer urban districts with the lack of any comprehensive school funding scheme that would provide them with the necessary tools to succeed in school and beyond. These failures have resulted in a series of decisions and orders, first in Robinson v. Cahill then in Abbott v. Burke, which struck down school funding statutes that violated the State's constitutional duty to provide a thorough and efficient education to all students. The Abbott rulings established standards for the right to education for New Jersey public school children, and in 2009, the Abbott Court approved, as facially constitutional, a statewide weighted student funding formula, implemented by the State as the School Funding Reform Act of 2008 (“SFRA”).

2. Unfortunately, now ten years since SFRA was implemented, it remains clear that Defendants have continuously failed to comply with their obligations to ensure that JCBOE is funded under SFRA at a level necessary to provide its students with the proper education to which they are entitled. JCBOE has been fully funded at a constitutionally required level in only the first year SFRA was implemented, the 2008-09 school year. Since that first year, JCBOE has steadily been slipping further and further below adequacy. As a result of being funded below adequacy for a decade in a cumulative amount that exceeds \$700 million, JCBOE will be forced to lay off hundreds of instructional and support staff and eliminate vital programs including special education programs, athletics, extracurricular activities, and afterschool programs. And this year, Defendants took steps to ensure that JCBOE falls further below adequacy,

implementing recent amendments to SFRA which will eliminate in excess of \$795 million in state aid to JCBOE over the next five years. In the upcoming 2019-20 school year alone, JCBOE's state aid has been cut by over \$27 million, leading to the impending termination of more than 400 teachers and support staff and, consequently, several programs previously offered by the District.

3. If the recent amendments to SFRA are permitted to be implemented, resulting in over \$180 million in additional reductions in state aid, the calamity that would ensue would be insurmountable. Drastic cuts would have to be taken, eliminating hundreds of teaching and support positions, and eliminating vital programs that ensure that an entire generation of JCBOE students achieve the educational standards necessitated by the thorough and efficient clause of the Constitution. These negative impacts would follow thousands of JCBOE students for the rest of their lives, severely reducing their chances of being accepted into college or other secondary schooling and their ability to be constructive members of the work force. JCBOE students are a diverse group, with a large percentage of children coming from low income households with unique socio-economic issues, including crime, poverty, limited English proficiency and mental health demands that require above and beyond care, including subsidized meals, special education and out of district placements due to Individualized Education Plans. With cuts of these proportions in a district such as JCBOE, it is easy to see how these recent amendments would wipe out all of the progress that has been made as a result of school funding reforms stemming from decades of litigation.

4. Defendants must now be ordered to comply with their constitutional obligations to ensure that the multitude of JCBOE students who face these devastating cuts will not be

harmed. Even one child without a proper education is too many – the threat faced here will affect thousands.

PARTIES

5. Plaintiff JCBOE is a body corporate and political subdivision of the State of New Jersey and, pursuant to Title 18A of the New Jersey Statutes, has been established as the public body responsible for administering the public education of the residents of the Jersey City school district.

6. Plaintiff E.H., a minor, through his guardian ad litem, Shanna C. Givens, is a resident of Jersey City and a student attending a Jersey City public school operated by the JCBOE, specifically Gladys Nunery PS #29.

7. Defendant State of New Jersey (“State”) is a sovereign state in the United States that enacted and enforces the School Funding Reform Act N.J.S.A. 18A:7F-43 to -63, the statute at issue in this litigation.

8. Defendant New Jersey Department of Education (“DOE”) is charged with implementing and enforcing laws and regulations governing education in the State of New Jersey, with offices located at 100 River View Plaza, Trenton, New Jersey 08625.

9. Defendant Dr. Lamont Repollet, in his official capacity as Commissioner of Education (“Commissioner”), is the individual charged with implementing and enforcing laws and regulations governing education in the State of New Jersey, with offices located at 100 River View Plaza, Trenton, New Jersey 08625.

10. Defendant New Jersey Department of Treasury administers the budget of the State of New Jersey with offices located at 50 W. State Street, Trenton, New Jersey 08608.

11. Defendant Elizabeth Maher Muoio, in her official capacity as New Jersey State Treasurer, is the individual charged with administering the budget of the State of New Jersey, with offices located at 50 W. State Street, Trenton, New Jersey 08608.

12. Defendant Office of Management and Budget is a division of Defendant Department of Treasury and is charged with managing the State's financial assets; and aids in ensuring that taxpayer resources are allocated in accordance with state laws, regulations, policies and guidelines, with offices located at 50 W. State Street, Trenton, New Jersey 08608.

VENUE

13. Venue in Hudson County is appropriate because that is where the cause of action arose and where Plaintiffs reside, pursuant to Rule 4:3-2.

FACTUAL AND LEGAL BACKGROUND

A. History of New Jersey Education Funding for Public Schools Prior to the School Funding Reform Act.

14. For decades, the New Jersey Supreme Court has established and enforced requirements in almost 30 opinions and orders to ensure that students in poorer urban school districts have sufficient funding to enable them to receive a "thorough and efficient education" guaranteed by the New Jersey Constitution.

15. Specifically, the Constitution requires the Legislature to "provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all children in the State between the ages of five and eighteen years." N.J. Const. art. VIII, § 4.

16. While the State has delegated some authority to local districts related to public education, “the ultimate responsibility for a thorough and efficient education was imposed upon the State.” Robinson v. Cahill, 62 N.J. 473, 508-09 (1973).

17. Since 1973, the Supreme Court has enforced these constitutional guarantees for students in so called “special needs” school districts, first in the Robinson v. Cahill line of cases, and later in the Abbott v. Burke cases which commenced in 1981.

18. In 1990, the Supreme Court issued its second Abbott decision ruling in Abbott v. Burke, 119 N.J. 287 (1990) (“Abbott II”), that the then school funding law, the Public School Education Act of 1975, was unconstitutional as applied to children in 28 “poorer urban” school districts.¹

19. The Court specifically held in Abbott II that the school funding mechanism in place at the time was neither thorough nor efficient, and that it “must be amended to assure funding of education in poorer urban districts at the level of property-rich districts; that such funding cannot be allowed to depend on the ability of local school districts to tax; that such funding must be guaranteed and mandated by the State; and that the level of funding must also be adequate to provide for the special educational needs of these poorer urban districts in order to redress their extreme disadvantages.” 119 N.J. at 295.

20. JCBOE was one of these originally designated “Abbott Districts”.

21. JCBOE’s designation as an “Abbott District” had not changed prior to the abandonment of the “Abbott District” designation in favor of the “SDA District” characterization as used in SFRA.

22. JCBOE has been and is currently designated as an “SDA District”.

¹ The number of districts was subsequently increased to 31.

23. In response to the Abbott II decision, the Legislature enacted the Quality Education Act (“QEA”), which provided slight increases in school funding for the Abbott Districts, including JCBOE, but did not provide substantial equivalence in per-pupil funding with wealthier districts.

24. As a consequence, like its predecessor school funding laws, the QEA was held in Abbott v. Burke, 136 N.J. 444 (1994) (“Abbott III”) to violate the “thorough and efficient” clause of the Constitution and the Supreme Court directed the Legislature to adopt yet another replacement school funding law that provided substantial equivalence in funding.

25. Thereafter, a new school funding statute was enacted, the Comprehensive Education Improvement and Financing Act (“CEIFA”), but in Abbott v. Burke, 149 N.J. 145 (1997) (“Abbott IV”), it, too, was struck down as unconstitutional.

26. Subsequent to finding that CEIFA failed to provide a thorough and efficient education to students in Abbott Districts, the Supreme Court ordered in Abbott IV what came to be known as the “parity remedy”, that is, until the State enacted and implemented a constitutional school funding scheme, the Abbott Districts would be afforded parity in per-pupil expenditures compared to wealthier school districts. Abbott IV, 149 N.J. at 190-191.

27. Following the parity remedy ordered in Abbott IV, the Supreme Court entered additional remedial orders, such as in Abbott v. Burke, 153 N.J. 480 (1998) (“Abbott V”), where, *inter alia*, the Court ordered the creation of supplemental programs and reforms and established a process for Abbott Districts to seek additional funding for supplemental programs and capital improvements.

B. Passage of the School Funding Reform Act of 2008.

28. In an effort to replace CEIFA with an alternative, and constitutional, school funding statute, the DOE, along with a consulting firm, used a methodology known as a Professional Judgment Panel (“PJP”) to develop the new funding mechanism.

29. The PJP method was used to identify “desired performance standards, then develop[] prototypical model districts, and finally employ[] panels of experts to determine the resources needed to reach the selected performance standards in those districts.” Abbott v. Burke, 196 N.J. 544, 552 (2008) (Abbott XIX).

30. The State’s “use of the PJP methodology began with a determination that its performance standards would be the Core Curriculum Content Standards (“CCCS”), which were deemed in Abbott IV, [], to be a reasonable definition of a constitutionally sufficient, thorough and efficient education.” Id. at 552-53.

31. The PJP process involved educators from across the State as well as the use of experts, resulting in the creation of expert reports as well as public hearings. Id. 552-54.

32. The PJP process also resulted in the creation of the “Report on the Cost of Education”, created in conjunction with the DOE and an expert education consulting firm, which set forth modeling for instructional and support staff necessary to deliver a thorough and efficient education. Attached hereto as **Exhibit A** is a true and correct copy of the Report on the Cost of Education.

33. Ultimately, this process culminated in the creation of the new school funding formula contained within SFRA.

34. In January 2008, the State enacted that new school funding statute titled the School Funding Reform Act of 2008 (“SFRA”), N.J.S.A. 18A:7F-43 to -63, in an attempt to provide

a constitutionally sound mechanism and formula to provide a thorough and efficient education to the children of the State. Id.

35. While SFRA was the funding method enacted to provide a thorough and efficient education, the performance standards would continue to be the CCCS, which the Court in Abbott v. Burke, 149 N.J. 145, 168 (1997) (“Abbott IV”) found to “spell out and explain the meaning of a constitutional education.”²

36. As set forth in the legislative findings accompanying SFRA, the “formula established under this act is the product of a careful and deliberative process that first involved determining the educational inputs necessary to provide a high-quality education, including specifically addressing the supplemental needs of at-risk students and those with limited English proficiency (LEP), and a determination of the actual cost of providing those programs. The formula provides adequate funding that is realistically geared to the core curriculum content standards, **thus linking those standards to the actual funding needed to deliver that content.**” N.J.S.A. 18A:7F-44(i) (emphasis added).

37. SFRA consists of a weighted school funding formula, used to determine state and local funding levels needed to provide the core curriculum content standards and a constitutionally required thorough and efficient education.

38. As a weighted formula, SFRA provides a “base per pupil amount” for elementary students which is then weighted for middle, and high school students, with additional weighted funding to support the costs for programs for at-risk students, limited-English proficient (LEP)

² The CCCS were created to prepare students for “college and career”, embracing nine subject areas. N.J.A.C. 6A:8-1.1.

students, and students with disabilities. Abbott v. Burke, 199 N.J. 140, 153-54 (2009) (“Abbott XX”).

39. The "base per-pupil amounts", together with the aforementioned additional funding for special needs students and a geographic adjustment, constitute the district's "Adequacy Budget."³ Id. at 155.

40. The Adequacy Budget is SFRA's main constitutional metric for assuring that school districts have sufficient funding to provide their students with a constitutional education by determining the minimum level of resources that are needed for students to achieve the CCCS.

41. Pursuant to SFRA, funding for the Adequacy Budget derives from two sources, a district's Local Fair Share ("LFS") and Equalization Aid.

42. In theory, a district's LFS is the amount that a district should be able to provide towards its Adequacy Budget.

43. The funding for a district's LFS is derived from the district's property tax levy. See N.J.S.A. 18A:7F-38(a).

44. An inherent limitation existed in a district's ability to raise revenue to support its LFS, from 2010 through 2018, due to a cap on yearly increases to property tax rates of two percent. See Wyns Cert., ¶ 26.

³ SFRA provides for review and evaluation of the resources and costs necessary to comply with the CCCS every three years, requiring the Governor, after consultation with the commissioner, to produce Education Adequacy Reports to the Legislature addressing, *inter alia*, the weights which comprise the Adequacy Budget. See N.J.S.A. 18A:7F-46(b). The purpose of the Education Adequacy Reports was to ensure that SFRA was adjusted to ensure its efficacy as a school funding mechanism providing for a constitutional education. Two such reports have been issued since the passage of the SFRA, in 2012 and 2016, both of which were submitted substantially after their due dates. See Certification of Melvin L. Wyns ("Wyns Cert."), ¶ 16-18. The third report was due to be transmitted to the Legislature by September 1, 2018; however, this did not occur and no additional Education Adequacy Report has been issued. Id. at ¶ 19.

45. From 2008 to 2010, the revenue cap was four percent.

46. These property tax caps, in turn, limited the increases in the amount of the local tax levy to be used for school funding. See gen. Wynn Cert., ¶ 162.

47. As a practical result, therefore, if a district's LFS increased by more than two percent in a year, a shortfall, or local levy gap, would develop since a district could only increase its local levy towards its LFS by two percent. Id. at ¶ 27.

48. In essence, a local levy gap would appear when a district's local school tax levy did not equal the LFS as calculated pursuant to SFRA. Id. at ¶ 28.

49. In theory, this local levy gap was intended to be filled by other categories of aid; however, through Defendants' application of SFRA, this did not occur as discussed below.

50. SFRA originally provided five general categories of aid: Equalization Aid, Categorical Aid, Transportation Aid, Adjustment Aid, and Education Adequacy Aid.

51. Equalization Aid is state aid used to support the Adequacy Budget by funding the difference between a district's Adequacy Budget and its LFS.

52. By operation of the SFRA formula, as a district's LFS increases, its Equalization Aid necessarily decreases, thereby effectively shifting the burden of funding the constitutionally required thorough and efficient education from the State to the district.

53. Categorical Aid provides funding on a per-pupil basis for certain expenses, including special education, and security costs.

54. Adjustment Aid, which is being phased out and will be completely eliminated in the 2024-2025 school year, goes to the heart of this litigation and was designed to ensure that districts would be able to at least maintain their 2007-08 level of spending without significant tax levy increases.

55. Adjustment Aid is provided to a district if the sum of its Equalization Aid, Security Aid, Special Education Categorical Aid, Extraordinary Aid, and Transportation Aid - essentially the totality of State aid – was less than the district’s 2007-2008 spending plus two-percent.

56. By operation of the SFRA formula in place prior to its recent amendments, as a district’s Equalization Aid decreases, its Adjustment Aid increases when a local levy gap exists. See Wyns Cert., ¶ 25.

57. The final category of aid included in SFRA is Education Adequacy Aid which is provided to certain Abbott Districts that were spending below their Adequacy Budgets at the time SFRA was implemented.

58. When SFRA was signed into law and initially implemented for the 2008-09 school year, educational funding for public schools in Jersey City was nearly in line with the Adequacy Budget level established by SFRA.

59. Due to the way previous education funding laws were implemented, however, the budget for public schools operating under JCBOE was supported primarily by funding from the State, as opposed to funding from local tax revenue, and the amount raised from the district property tax was below its LFS as calculated by SFRA, forming a local levy gap.

60. Adjustment Aid was intended to provide those districts with a local levy below their LFS with the time needed to increase their local levy to an amount equal to their LFS. Abbott XX, 199 N.J. at 165-166.

61. Upon the passage and signing of SFRA by then Governor Jon Corzine, the State sought to reopen the Abbott cases by filing a motion seeking declarations from the Supreme Court that SFRA satisfies the constitutional requirement that the State provide a thorough and efficient education to children of the State and that the Supreme Court’s prior remedial orders

concerning the failure by the State to provide a thorough and efficient education to the students in the Abbott districts are no longer necessary.

62. The Court ultimately decided, in Abbott v. Burke, 196 N.J. 544 (2008) (“Abbott XIX”) that the question of SFRA’s constitutionality was not suited for summary disposition and remanded the matter to a Special Master to develop a full and complete factual and evidential record addressing the contentions raised by the parties.

63. Notwithstanding the general presumption of validity of a statute, the Court noted that its prior remedial orders require that the **State** bear the burden of proving that SFRA provides a constitutional thorough and efficient education. Abbott XIX, 196 N.J. at 550, 559.

64. Following remand, the Special Master conducted evidentiary hearings and heard testimony from numerous fact and expert witnesses. Ultimately, he submitted a Special Master’s Report concluding that SFRA was facially constitutional.

65. Upon review of the Special Master’s Report, the Supreme Court issued its decision regarding the constitutionality of SFRA. Abbott v. Burke, 199 N.J. 140 (2009) (“Abbott XX”).

66. In that decision, the Court found that SFRA was facially constitutional with two caveats: 1) “that the State will continue to provide school funding aid during this and the next two years at the levels required by SFRA’s formula each year”; and 2) a mandated review of the SFRA formula’s weights and other operative parts will occur after three years of implementation and every three years thereafter to ensure that students were receiving a thorough and efficient education. Id. at 146.

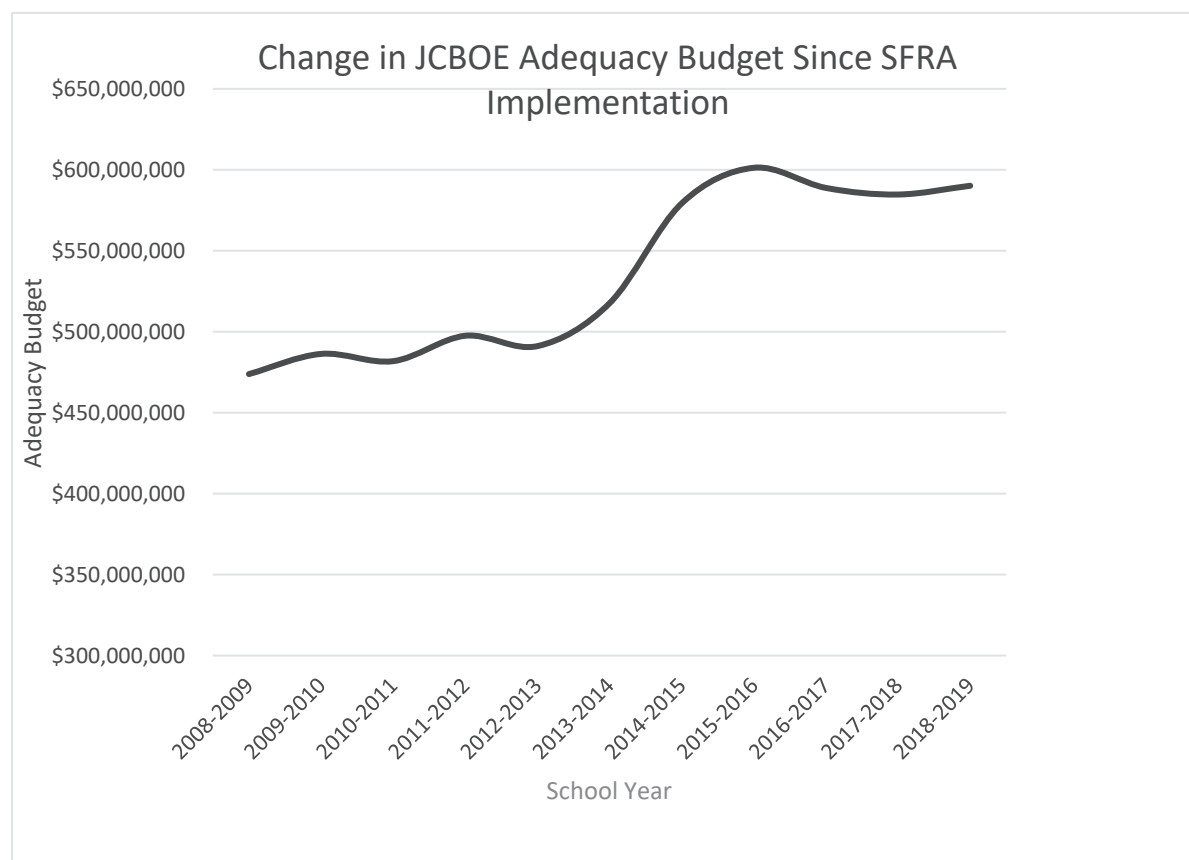
67. The Court recognized in Abbott XX, that the Adequacy Budget, as defined by SFRA, provides the amount of school funding that would provide a constitutionally adequate

education. This was because the Adequacy Budget supplied funding sufficient to educate students to the CCCS standards and to fund extracurricular and co-curricular activities necessary to provide a thorough and efficient education. Id. at 153.

C. JCBOE's School Funding Post SFRA Passage

68. Since SFRA was enacted, JCBOE's Adequacy Budget has been steadily rising.

69. The JCBOE's Adequacy budget since SFRA was implemented in the 2008-09 school year through the 2018-19 school year, represented as a line graph, is as follows:



See Wynn Cert., ¶ 144.

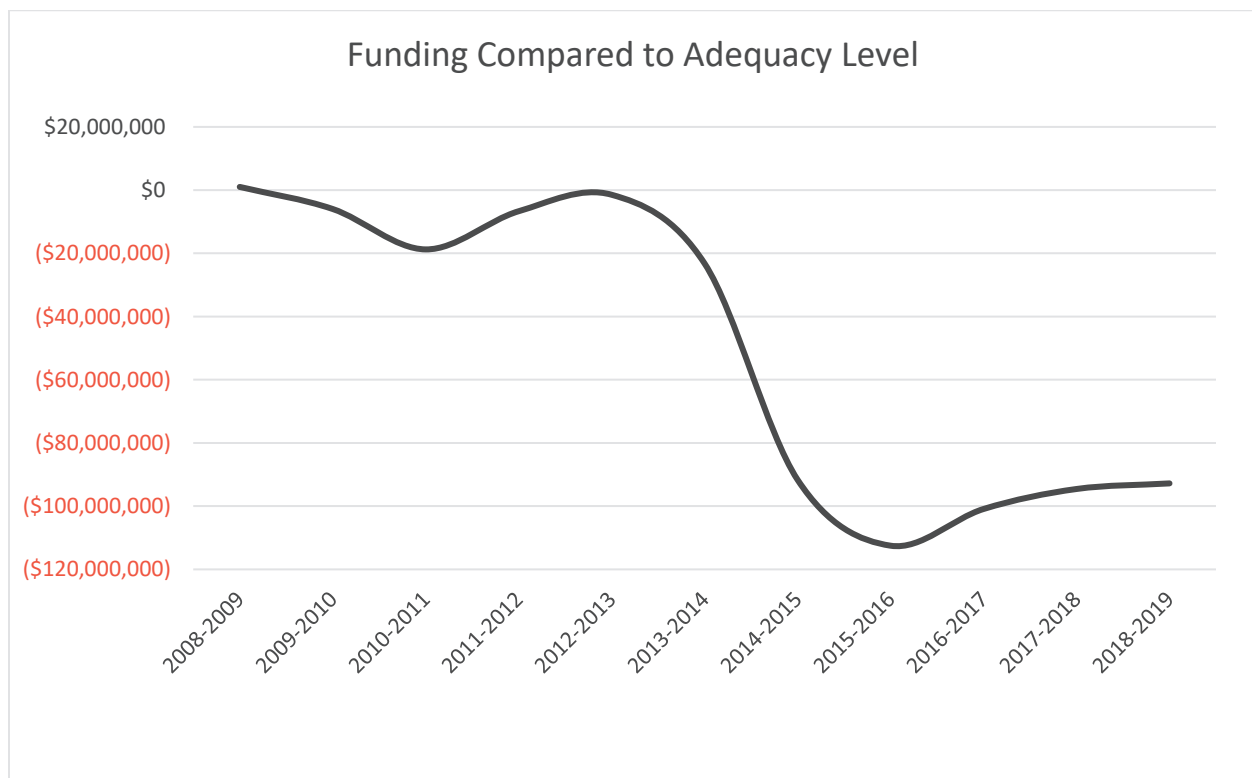
70. While JCBOE's Adequacy Budget has been rising, its funding level compared to that Adequacy Budget demonstrates that, other than the first year of SFRA implementation,

JCBOE has fallen further and further below the Adequacy Budget, the amount necessary to provide a thorough and efficient education.

71. JCBOE received funding at its Adequacy Budget level only in the first year SFRA was implemented. Id. at ¶ 15.

72. During this time that JCBOE was underfunded and below adequacy pursuant to SFRA, JCBOE was under State control, with local control only being restored on October 18, 2018.

73. The line graph below depicts the changes in JCBOE’s funding compared to its Adequacy Budget, demonstrating whether JCBOE was “above” or “below” adequacy in terms of SFRA funding:



Id. at 146.

74. State education aid for 2010-11 was reduced more than it had been in the previous year, resulting in school districts receiving approximately \$1.6 billion less than SFRA would have provided if fully funded. See Abbott v. Burke, 206 N.J. 332, 345 (2011) (“Abbot XXI”).

75. As a result of this cut in state aid, the Abbott plaintiffs filed a motion to compel the State to comply with Abbott XX and fully fund SFRA, leading to the Supreme Court’s decision in Abbott XXI.

76. In Abbott XXI, the Supreme Court ultimately held that the failure to fully fund SFRA caused significant harm to the students in Abbott districts and that such cuts violated those students’ constitutional right to receive a thorough and efficient education. Id. at 341.

77. Consequently, it ordered that the SFRA formula be fully funded for the 2011-2012 school year as to the 31 former Abbott/SDA Districts. Id. at 376.

78. Since the Supreme Court’s ruling in Abbott XXI, which reiterated that school funding must be in line with the formula set forth in SFRA in order for students to have a chance to receive a thorough and efficient education, the JCBOE public schools have been funded below the Adequacy Budget level and, therefore, at a level below that which is necessary to provide a thorough and efficient education. See Wyns Cert., ¶ 15.

79. Between the 2008-09 school year, the school year SFRA was implemented, and 2019-20 school year, the Adequacy Budget for JCBOE’s schools has increased by more than thirty one percent (31 %) under SFRA. Id. at ¶ 20.

80. During that same time period, JCBOE’s LFS has increased nearly one hundred and forty two percent (142%). Id. at ¶ 21.

81. Because of the confluence of a number of factors, including: 1) an increasing Adequacy Budget, 2) the reduction in Equalization Aid to JCBOE, 3) the fact that the increases

in Adjustment Aid are capped at 102% of the 2007-08 funding, and 4) the cap placed on JCBOE's ability to increase its local levy to support increases in its LFS, JCBOE has fallen further below adequacy and the constitutional level of funding necessary to provide a thorough and efficient education to the students of JCBOE. Id. at ¶ 24.

82. JCBOE has increased its local revenue as permitted by SFRA and the local levy has increased between 2008-09 and 2019-20 by nearly fifty seven percent (57%). Id. at ¶ 23.

83. However, as set forth above, SFRA's two percent property tax cap, only recently removed, has constrained the speed with which JCBOE can increase its local revenue to provide funding consistent with its LFS. Id. at ¶ 26.

84. The JCBOE's Adequacy Budget for the 2017-18 school year, pursuant to N.J.S.A. 18A:7F-51, was \$584,758,085. Id. at ¶ 116.

85. Pursuant to SFRA, JCBOE was entitled to receive \$214,496,630 in Equalization Aid, for the 2017-18 school year. Id. at ¶ 117.

86. Pursuant to the SFRA formula, JCBOE's LFS for the 2017-18 school year was \$370,261,455. Id. at ¶ 118.

87. In the 2017-18 school year JCBOE contributed \$116,692,448 towards its LFS. Id. at ¶ 119.

88. As such, there was a local levy gap in the 2017-18 school year of \$253,569,007. Id. at ¶ 120.

89. JCBOE was entitled to receive \$158,883,988 in Adjustment Aid and \$125,411 in Educational Adequacy Aid for the 2017-18 school year, reducing its local levy gap by these amounts. Id. at ¶ 121.

90. For the 2017-18 school year, JCBOE was \$94,559,608 “below adequacy” due to the local levy gap not being filled by Adjustment Aid and Educational Adequacy Aid. Id. at ¶ 122.

91. However, in the 2017-18 school year overall SFRA aid for Jersey City was reduced below the entitlement amounts required above under SFRA by \$8,375,597, increasing the amount the district was actually “below adequacy” to \$101,713,919, an amount larger than that shown in the preceding paragraph. Id. at ¶ 123.

92. \$1,221,286 of the overall reduction in aid above was in Transportation Aid which is not considered in this calculation. Id. at ¶ 124.

93. As a result, JCBOE had to reduce expenditures to balance its budget.

94. The JCBOE’s Adequacy Budget for the 2018-19 school year, pursuant to N.J.S.A. 18A:7F-51, was \$590,163,255. Id. at ¶ 133.

95. Pursuant to SFRA, JCBOE was entitled to receive \$191,268,212 in Equalization Aid, for the 2018-19 school year. Id. at ¶ 134.

96. Pursuant to the SFRA formula, JCBOE’s LFS for the 2018-19 school year was \$398,895,043. Id. at ¶ 135.

97. In the 2018-19 school year, JCBOE contributed \$124,367,357 towards its LFS. Id. at ¶ 136.

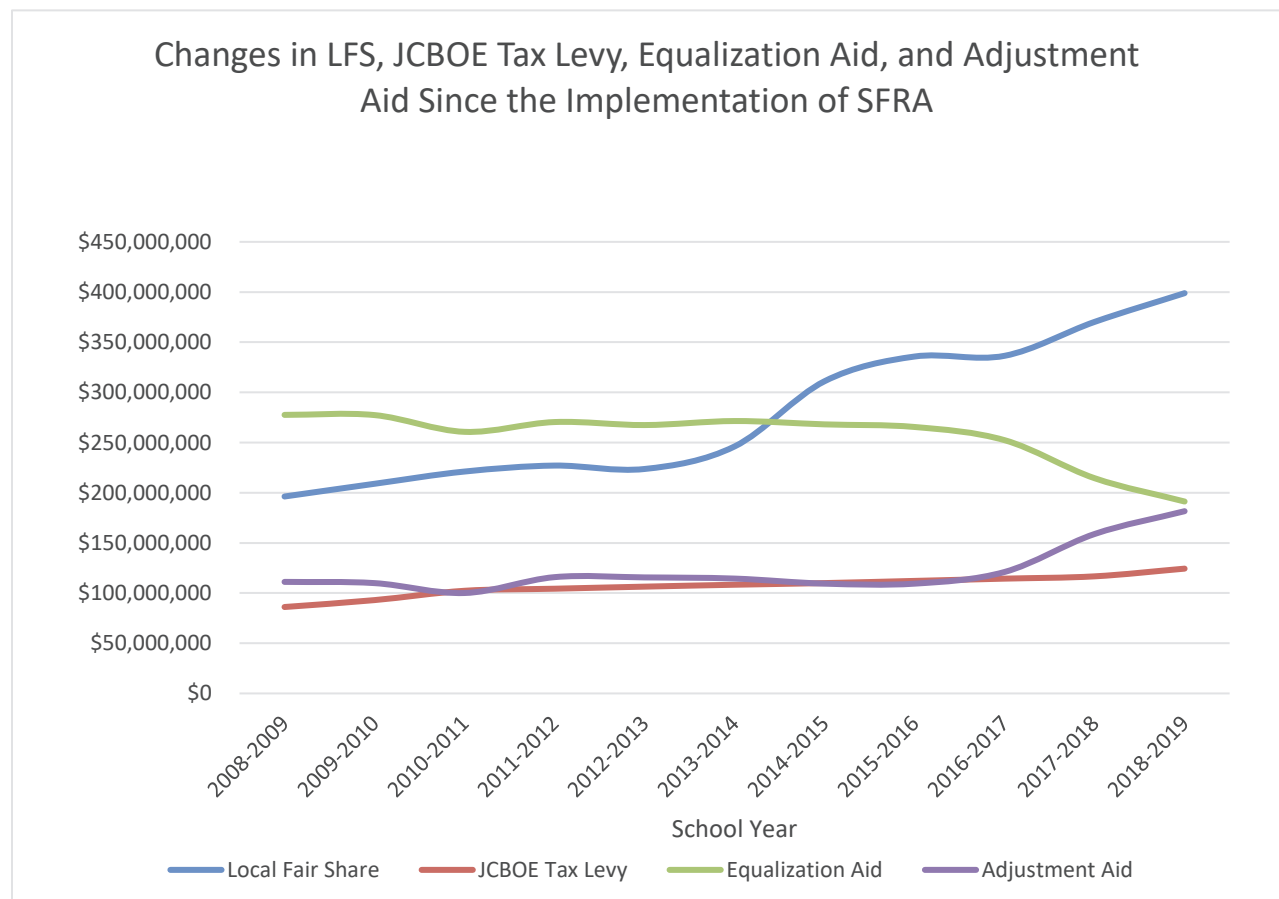
98. As such, there was a local levy gap in the 2018-19 school year of \$274,527,686. Id. at ¶ 137.

99. JCBOE was entitled to receive \$181,607,480 in Adjustment Aid and \$125,411 in Educational Adequacy Aid for the 2018-19 school year reducing its local levy gap by these amounts. Id. at ¶ 138.

100. For the 2018-19 school year, Jersey City was \$92,794,795 “below adequacy” due to the local levy gap not being filled by Adjustment Aid and due to receiving less state aid than required pursuant to SFRA. Id. at ¶ 139.

101. However, in the 2018-19 school year overall SFRA aid for JCBOE was again reduced below the entitlement amounts required above under SFRA by \$10,954,857, increasing the amount the district was actually “below adequacy” to \$103,749,652, an amount larger than that shown in the preceding paragraph, resulting in Jersey City having to reduce expenditures to balance its budget. Id. at ¶ 140.

102. The graph below demonstrates the changes in JCBOE’s LFS, the amounts JCBOE contributed towards the LFS, the amount of Equalization Aid JCBOE received, and the amount of Adjustment Aid it received since the 2008-09 school year through the 2018-19 school year:



Id. at ¶ 145.

103. From the 2009-2010 school year through the 2018-2019 school year, JCBOE has been funded at a cumulative level more than \$574,772,516 below that which was necessary for it to provide a thorough and efficient education. Id. at ¶ 142.

104. During this time, JCBOE was under State control necessitating school funding decisions to be made and/or approved by the State monitor.

105. Not only has the Adequacy Budget not been fully funded since SFRA's second year of implementation, but Defendants have failed to provide full state aid funding to JCBOE in the 2017-18 school year in the amount of \$8,375,597 and in the 2018-19 school year in the amount of \$10,954,857. Id. at ¶ 143.

106. Adding insult to injury, JCBOE has been forced to use a portion of its Adequacy Budget, which is meant to be used solely for operational costs such as staff and programs, towards its capital expenditures such as school maintenance and repairs.

107. Under JCBOE's 10-year Long Range Facility Plan, the School Development Authority ("Development Authority") was to provide JCBOE with \$1,388,681,525.00 in funding to construct additional schools and to maintain JCBOE's existing schools.

108. Of this over \$1.3 billion, however, the SDA has only provided \$361,064,210.97 of funding, leading to a shortfall of over \$1 billion for JCBOE's capital expenditures.

109. This shortfall puts further strain on JCBOE whose buildings are over 100 years old and are largely in disrepair.

110. For example, not one of the 40 school buildings in JCBOE can provide safe potable water for drinking due to lead being present in their pipes, forcing JCBOE to purchase water from outside private suppliers.

111. As a consequence of the shortfall in money for capital expenditures, which JCBOE is entitled to under the Educational Facilities Construction and Financing Act, N.J.S.A. 18A:7G-1 *et seq.*, JCBOE is forced to use funds from its underfunded Adequacy Budget to make needed and vital repairs to its schools, further reducing the money available to educate students.

D. Recent Amendments to SFRA Causing Jersey City to Fall Further Below Adequacy.

112. Notwithstanding that the public schools of Jersey City were operating at \$103.7 million less in funding than its Adequacy Budget required in the 2018-19 school year, the State enacted and began to implement amendments to SFRA, effective as of July 24, 2018 (the “Amendments”) that will substantially worsen JCBOE’s financial situation.

113. Pursuant to the Amendments, set forth, in part, at N.J.S.A. 18A:7F-68(b), the Adjustment Aid that JCBOE receives from Defendants is being phased out over a six-year period as follows:

- a. A 13 percent reduction in the 2019-2020 school year;
- b. A 23 percent reduction in the 2020-2021 school year;
- c. A 37 percent reduction in the 2021-2022 school year;
- d. A 55 percent reduction in the 2022-2023 school year;
- e. A 76 percent reduction in the 2023-2024 school year; and
- f. A 100 percent reduction in the 2024-2025 school year.

114. These reductions, which are estimated to result in a total cumulative reduction of school aid of at least \$795 million to Jersey City by the 2024-2025 school year, will cause JCBOE to fall further below adequacy. See *Wyns Cert.*, ¶ 149.

115. As a result of the 13 percent reduction in Adjustment Aid for the 2019-20 school year, which is a reduction in funding from the 2018-19 school year of \$27,192,633 and of \$38,147,490 from the version of SFRA which was held to be constitutional in Abbott XX, JCBOE will be forced to take drastic steps to balance the budget which will directly affect JCBOE's ability to comply with CCCS. Id. at ¶ 150.

116. Until JCBOE recently received notice of the actual amount of cuts to Adjustment Aid for the 2019-20 school year totaling \$27,192,633, it had been estimated that these cuts would only amount to approximately \$14,000,000.

117. The thirteen percent cut in Adjustment Aid equates to a reduction in JCBOE's total state aid by 6.6%. Id. at ¶ 151.

118. The JCBOE's Adequacy Budget for the 2019-20 school year pursuant to N.J.S.A. 18A:7F-51, was \$622,876,777. Id. at ¶ 152.

119. Pursuant to SFRA, JCBOE was entitled to receive \$148,837,309 in Equalization Aid, for the 2019-20 school year. Id. at ¶ 153.

120. Pursuant to the SFRA formula, JCBOE's LFS for the 2019-20 school year was \$474,039,468. Id. at ¶ 154.

121. For the 2019-20 school year, JCBOE plans to contribute \$134,854,704 towards its LFS. This is an 8.43% increase over the 2018-19 contribution. Id. at ¶ 155.

122. Nonetheless, even after this significantly increased local contribution, there was a local levy gap for the 2019-20 school year of \$339,184,764. Id. at ¶ 156.

123. JCBOE was entitled to receive \$181,981,470 in Adjustment Aid and \$125,411 in Educational Adequacy Aid for the 2019-20 school year reducing its local levy gap by these amounts. Id. at ¶ 157.

124. For the 2019-20 school year, Jersey City was \$157,077,883 “below adequacy” due to the local levy gap not being filled by Adjustment Aid and Educational Adequacy Aid. Id. at ¶ 158.

125. Due to the reduction in Adjustment Aid for the 2019-20 school year, which equates to a reduction in funding of approximately \$27,192,633, JCBOE will be forced to take drastic steps to balance the budget which would directly affect JCBOE’s ability to comply with the CCCS.

126. JCBOE received the 2019-20 state aid notice setting forth the reduction in Adjustment Aid for the 2019-20 school year on or about March 8, 2019.

127. Additionally, JCBOE’s charter school tuition was increased by \$6.2 million for the 2019-20 school year due to increased charter school enrollment.

128. It is clear that JCBOE’s below adequacy funding has directly impacted its students, leading to a per weighted-pupil shortfall for the 2019-20 school year equaling \$3,405.00 and with a per weighted-pupil shortfall in funding existing in each year since the SFRA was implemented other than in the initial year of implementation, the 2008-09 school year. See Wyns Cert., ¶ 159.

129. The below chart reflects how JCBOE’s below adequacy funding has resulted in a shortfall in funding in per weighted-pupil from the 2009-10 school year to the 2019-20 school year:

School Year	Weighted Enrollment	Adequacy Budget	Adequacy Budget/Per Weighted Pupil	Adequacy Budget Funding	Adequacy Budget Funding/Per Weighted Pupil	Shortfall	Short-fall/Per Weighted Pupil
2008-09	43,921	\$473,854,172	\$10,789	\$474,873,146	\$10,812	\$0	\$0
2009-10	43,624	\$486,315,450	\$11,148	\$480,344,364	\$11,011	\$5,971,086	\$137
2010-11	48,108	\$489,564,151	\$10,176	\$462,640,757	\$9,617	\$26,923,394	\$560
2011-12	43,395	\$497,534,646	\$11,465	\$490,855,850	\$11,311	\$6,678,796	\$154
2012-13	40,722	\$491,127,159	\$12,060	\$489,658,119	\$12,024	\$1,469,040	\$36
2013-14	41,366	\$517,593,230	\$12,513	\$494,363,390	\$11,951	\$23,229,840	\$562
2014-15	45,778	\$579,277,523	\$12,654	\$487,635,226	\$10,652	\$91,642,297	\$2,002
2015-16	46,875	\$601,290,845	\$12,828	\$488,786,917	\$10,427	\$112,503,928	\$2,400
2016-17	46,921	\$588,836,489	\$12,550	\$487,945,925	\$10,399	\$100,890,564	\$2,150
2017-18	46,426	\$584,758,085	\$12,595	\$483,044,166	\$10,405	\$101,713,919	\$2,191
2018-19	46,119	\$590,163,255	\$12,797	\$486,413,603	\$10,547	\$103,749,652	\$2,250
2019-20	46,126	\$622,876,777	\$13,504	\$465,798,894	\$10,098	\$157,077,883	\$3,405

Id. Wyns Cert., ¶ 160.

130. On March 20, 2019, JCBOE adopted and filed its tentative budget pursuant to N.J.S.A. 18A:7F-5 and 18A:7F-6 for the 2019-20 school year. See Wyns Cert., Ex. X

131. As set forth in the tentative budget, JCBOE will have a tax levy equaling \$134,854,704.00, which includes a ten percent (10%) increase in JCBOE's school tax, representing a two percent (2%) increase in property taxes.

132. The tentative budget also provides that JCBOE will receive \$381,497,338 in state aid for the 2019-20 school year.

133. Along with adopting the tentative budget, JCBOE made a preliminary budget presentation on March 20, 2019. See Wyns Cert., Ex. X.

134. The 2019 Preliminary Budget Presentation, together with the Certified tentative budget, indicates the cuts that JCBOE will have to make to balance its budget as a result of the State's cuts to Adjustment Aid as well as cuts resulting from being funded below adequacy.

135. As a result of the reduction in Adjustment Aid for the 2019-2020 school year, JCBOE must now cut 410 individuals, of which 370 individuals currently hold instructional positions and 40 hold instructional support positions in the following areas:

- a. 4 full time crises intervention teachers.
- b. 5 full time library media specialists.
- c. 1 full time applied technology arts specialist.
- d. 11 full time general education kindergarten teachers.
- e. 115 full time general education teachers in the first through fifth grades.
- f. 1 full time AEP Social Studies teacher in its middle schools.
- g. 4 full time Social Studies teachers in its middle schools.
- h. 5 full time English teachers in its middle schools.
- i. 6 full time Math teachers in its middle schools.
- j. 3 full time Science teachers in its middle schools.
- k. 23 full time Science teachers in its high schools.
- l. 18 full time Math teachers in its high schools.
- m. 1 full time Math teacher in its 7-8th grades.
- n. 1 fully time Cosmetology teacher in its high schools.
- o. 33 full time general education teachers in its high schools.
- p. 5 full time Business teachers in its high schools.
- q. 1 full time Special Education English teacher in its high schools.
- r. 17 full time English teachers in its high schools.
- s. 16 full time Social Studies teachers in its high schools.
- t. 1 full time Life Skills teacher in its high schools.

- u. 1 full time Technology/Media teachers in its high schools.
- v. 1 full time Special Education World Language teacher in its 6-8th grades.
- w. 1 full time Special Education World Language teacher in its high schools.
- x. 7 full time World Language Teachers in its high schools.
- y. 54 full time General Special Education Teachers in its high schools.
- z. 2 full time Special Education Pull Out Support Teachers in its high schools.
- aa. 3 full time Special Education-Autistic Teachers in its high schools.
- bb. 1 full time Special Education Cognitive Impairment Teachers in its high schools.
- cc. 1 full time Special Education In-Class Replacement Teachers in its high schools.
- dd. 22 full time Special Education In-Class Support Teachers in its high schools.
- ee. 1 full time Special Education Learning/Language Disability Teacher in its high schools.
- ff. 1 full time Special Education Teacher in its pre-kindergarten schools.
- gg. 1 full time Special Education Teacher-bilingual in its high schools.
- hh. 1 full time Special Education Home Instruction Teacher in its high schools.
- ii. 2 full time Lead Special Education Teacher in its high schools.
- jj. 12 full time Guidance Counselors.
- kk. 4 full time Job Placement Coordinators.
- ll. 3 full time Assistant Principals in its elementary schools.

- mm. 2 full time High School Principals.
- nn. 5 full time school nurses.
- oo. 1 full time social worker.
- pp. 3 full time Elementary School Math Supervisors.
- qq. 10 full time Special Education Supervisors.

136. These cuts to instructional and support staff will have a direct effect on courses and programs which JCBOE is able to provide its students.

137. As a result of the aforementioned cuts and changes to the educational services that JCBOE provides to its students, JCBOE's ability to provide its students with an education in compliance with the CCCS, and with the constitutional requirement of a thorough and efficient education, will be further jeopardized.

138. As a result of the aforementioned cuts and changes to the educational services that JCBOE provides to its students, graduation rates for JCBOE's students will be negatively affected.

139. As a result of the aforementioned cuts and changes to the educational services that JCBOE provides to its students, standardized test scores for JCBOE's students will be negatively affected.

140. These cuts will exacerbate the problems already facing JCBOE as its teacher and staffing levels are already out of compliance with the SFRA modeling as established in the Report on the Cost of Education, even prior to the aforementioned cuts going into effect. See Exhibit A.

141. Because JCBOE is already understaffed, it does not have the resources necessary to provide a thorough and efficient education to its students and the aforementioned cuts will

only move the students of JCBOE further away from receiving their constitutional right to receive a thorough and efficient education.

142. In the 2018-19 school year, the SFRA models provide that JCBOE should have 7.57 librarians/media specialists spread among all of its high schools.

143. However, due to funding below the Adequacy Budget level, JCBOE only employed 4 librarians/media specialists prior to the aforementioned cuts taking affect, which equates to 47.2% below the SFRA models.

144. In the 2018-19 school year, the SFRA models provide that JCBOE should have a total of at least 513 teachers in its high schools.

145. Due to funding below the Adequacy Budget level, JCBOE employed 529 teachers in their high schools prior to the aforementioned cuts taking affect, which equates to only 3.1 % above the SFRA models.

146. With the aforementioned cuts, the number of high school teachers in JCBOE schools fall below the number required by the SFRA models.

147. In the 2018-19 school year, the SFRA models provide that JCBOE should have a total of 34.11 technology specialists employed in its high schools.

148. However, due to funding below the Adequacy Budget level, JCBOE employed only 29 technology specialists in its high schools, which equates to 15.0% below the SFRA models.

149. In the 2018-19 school year, the SFRA models provide that JCBOE should have a total of 18.36 directors/supervisors employed in its high schools.

150. However, due to funding below the Adequacy Budget level, JCBOE employed only 5 directors/supervisors in its high schools, which equates to 72.8% below the SFRA model.

151. In the 2018-19 school year, the SFRA models provide that JCBOE should have a total of 42.82 reading specialists/reading recovery teachers employed at its high schools.

152. However, due to funding below the Adequacy Budget level, JCBOE employs no individuals in these positions.

153. In the 2018-19 school year, the SFRA models provide that JCBOE should have employed a total of 867.03 teachers in its middle schools.

154. However, due to funding below the Adequacy Budget level, JCBOE employed 468.22 teachers in its middle schools, which equates to 46.0% below the SFRA model.

155. In the 2018-19 school year, the SFRA models provide that JCBOE should have employed a total of 19.11 library/media specialists in its middle schools.

156. However, due to funding below the Adequacy Budget level, JCBOE employed only 9.33 library/media specialists in its middle schools, which equates to 51.1% below the SFRA model.

157. In the 2018-19 school year, the SFRA models provide that JCBOE should have employed a total of 19.11 technology specialists in its middle schools.

158. However, due to funding below the Adequacy Budget level, JCBOE employed only 7.33 technology specialists in its middle schools, which equates to 61.6% below the SFRA model.

159. In the 2018-19 school year, the SFRA models provide that JCBOE should have employed a total of 47.77 guidance counselors in its middle schools.

160. However, due to funding below the Adequacy Budget level, JCBOE employed only 20.33 guidance counselors in its middle schools, which equates to 57.4% below the SFRA model.

161. In the 2018-19 school year, the SFRA models provide that JCBOE should have employed a total of 19.11 nurses in its middle schools.

162. However, due to funding below the Adequacy Budget level, JCBOE employed only 9.33 nurses in its middle schools, which equates to 51.1% below the SFRA model.

163. In the 2018-19 school year, the SFRA models provide that JCBOE should have employed a total of 19.11 media aids in its middle schools.

164. However, due to funding below the Adequacy Budget level, JCBOE employed only 5.33 media aids in its middle schools, which equates to 72.1% below the SFRA model.

165. In the 2018-19 school year, the SFRA models provide that JCBOE should have employed a total of 57.32 clerical/data entry staff in its middle schools.

166. However, due to funding below the Adequacy Budget level, JCBOE employed only 29.00 clerical/data entry staff in its middle schools, which equates to 49.4% below the SFRA model.

167. In the 2018-19 school year, the SFRA models provide that JCBOE should have employed a total of 19.11 Principals in its middle schools.

168. However, due to funding below the Adequacy Budget level, JCBOE employed only 10.33 Principals in its middle schools, which equates to 45.9% below the SFRA model.

169. In the 2018-19 school year, the SFRA models provide that JCBOE should have employed a total of 19.11 Assistant Principals in its middle schools.

170. However, due to funding below the Adequacy Budget level, JCBOE employed only 7.33 Assistant Principals in its middle schools, which equates to 61.6% below the SFRA model.

171. In the 2018-19 school year, the SFRA models provide that JCBOE should have employed a total of 62.78 security guards in its middle schools.

172. However, due to funding below the Adequacy Budget level, JCBOE employed only 39.54 security guards in its middle schools, which equates to 37.0% below the SFRA model.

173. In the 2018-19 school year, the SFRA models provide that JCBOE should have employed a total of 131.03 reading specialists/reading recovery teachers in its middle schools.

174. However, due to funding below the Adequacy Budget level, JCBOE employed only 50.63 reading specialists/reading recovery teachers in its middle schools, which equates to 61.4% below the SFRA model.

175. In the 2018-19 school year, the SFRA models provide that JCBOE should have employed a total of 6.84 social workers in its middle schools.

176. However, due to funding below the Adequacy Budget level, JCBOE employed only 4 social workers in its middle schools, which equates to 41.5% below the SFRA model.

177. In the 2018-19 school year, the SFRA models provide that JCBOE should have employed a total of 28.15 librarians/media specialists in its elementary schools.

178. However, due to funding below the Adequacy Budget level, JCBOE employed only 27.24 librarians/media specialists in its elementary schools, which equates to 3.2% below the SFRA model.

179. In the 2018-19 school year, the SFRA models provide that JCBOE should have employed a total of 28.15 technology specialists in its elementary schools.

180. However, due to funding below the Adequacy Budget level, JCBOE employed only 19.24 technology specialists in its elementary schools, which equates to 31.7% below the SFRA model.

181. In the 2018-19 school year, the SFRA models provide that JCBOE should have employed a total of 28.15 nurses in its elementary schools.

182. However, due to funding below the Adequacy Budget level, JCBOE employed only 27.24 nurses in its elementary schools, which equates to 3.2% below the SFRA model.

183. In the 2018-19 school year, the SFRA models provide that JCBOE should have employed a total of 126.58 Instructional Aids in its elementary schools.

184. However, due to funding below the Adequacy Budget level, JCBOE employed only 109.43 Instructional Aids in its elementary schools, which equates to 13.5% below the SFRA model.

185. In the 2018-19 school year, the SFRA models provide that JCBOE should have employed a total of 253.15 reading specialists/reading recovery teachers in its elementary schools.

186. However, due to funding below the Adequacy Budget level, JCBOE employed only 223.85 readings specialists/reading recovery teachers in its elementary schools, which equates to 11.6% below the SFRA model.

187. In the 2018-19 school year, the SFRA models provide that JCBOE should have employed a total of 28.15 media aids in its elementary schools.

188. However, due to funding below the Adequacy Budget level, JCBOE employed only 17.24 media aids in its elementary schools, which equates to 38.7% below the SFRA model.

189. In the 2018-19 school year, the SFRA models provide that JCBOE should have employed a total of 16.64 social workers in its elementary schools.

190. However, due to funding below the Adequacy Budget level, JCBOE employed only 6.2 social workers in its elementary schools, which equates to 62.7% below the SFRA model.

191. As the above demonstrates, JCBOE was significantly understaffed such that the SFRA modeling was not met by JCBOE even prior to the cuts necessitated by the reduction in Adjustment Aid for the 2019-20 school year.

192. Increased funding, not a reduction, is needed in Jersey City in order for JCBOE's students to receive a thorough and efficient education.

193. By way of further example, actual classroom spending per pupil was \$10,000 in the 2008-2009 school year, the first year the SFRA was implemented.

194. Budgeted classroom spending per pupil for the 2017-18 school year was \$10,787.00, only a 7.87% increase despite the fact that JCBOE's 2017-18 Adequacy Budget increased by 23.4% over its 2008-09 Adequacy Budget. See Wyns Cert., ¶ 125.

195. By amending SFRA to phase out Adjustment Aid, JCBOE will fall further below the Adequacy Budget as calculated by SFRA, contrary to the Orders of the Supreme Court in Abbott XX and XXI.

196. Due to being funded at a level below the Adequacy Budget since the 2009-10 school year, JCBOE will be forced to cut hundreds of additional instructional and support staff, on top of those cuts being made due to the phase out of Adjustment Aid, as well as eliminate various programs, including special education programs, after school programs, athletics, and extracurricular activities.

197. JCBOE cannot overcome the local levy gap that will exist as a result of the phase out of Adjustment Aid.

198. Based upon 2019-20 data and the 2019-20 level of Adjustment Aid, in order for JCBOE to fund its schools at the level required by the Adequacy Budget, JCBOE would have to increase its local levy by \$157,077,883, or more than one hundred sixteen percent (116%) its 2019-20 level. See Wyns Cert., ¶ 161.

199. Due to Jersey City's past inability to increase local revenue at a rate necessary to meet its LFS obligations because of SFRA's 2% cap, it is impossible now for JCBOE to fund its LFS to enable it to reach adequacy, as Jersey City would have to increase their property tax rates by 33 percent. Id. at ¶ 162.

200. Even if JCBOE were able to increase its tax rates to raise higher levels of revenue to meet the LFS and Adequacy Budget, the percentage increase in taxes would likely have devastating effects on the tax base, preventing these increased revenues from being realized.

201. This inability to raise increased levels of local revenue through higher tax rates is referred to as "municipal overburden" in the Abbott line of cases.

202. In Abbott XX, the Court specifically noted that the plaintiffs were concerned with municipal overburden, but it held that this issue was alleviated due, in part, by Adjustment Aid.

203. However, with the elimination of Adjustment Aid and JCBOE's practical inability to increase local revenue to satisfy LFS and fund its schools in an amount consistent with the Adequacy Budget calculation in SFRA, Defendants cannot provide the students of JCBOE with a constitutionally sufficient education.

E. Newly Enacted Payroll Tax In Jersey City

204. In conjunction with amending SFRA to, among other things, eliminate Adjustment Aid to districts such as JCBOE, the Legislature also amended N.J.S.A. 40:48C-15, effective July 24, 2018, to permit any municipality with a population exceeding 200,000, which includes

Jersey City , to enact an ordinance which would permit the collection of an employer payroll tax not to exceed 1 % (the “Payroll Tax Statute”). Attached hereto as **Exhibit B** is a true and correct copy of the Payroll Tax Statute.

205. The Payroll Tax Statute was also amended to provide that if any municipality subject to the act had a median household income of \$55,000.00 or greater, than all of the employer payroll tax collected would be deposited into a trust fund to be used exclusively for school purposes. N.J.S.A. 40:48C-15(d)(1).

206. This median household income provision is applicable only to Jersey City currently, as no other municipality has both a population in excess of 200,000 and a median household income of \$55,000.00 or greater, as recognized by the Statement of the Assembly Bill introduced on June 11, 2018.

207. The Statement of the Assembly Bill also specifically stated that “[t]he bill would help offset certain reductions in State school aid that may be in effect after State fiscal year 2018, as is currently being considered by the Legislature in the form of Senate Bill No. 2 of 2018-2019.”

208. The Senate Bill No. 2 referenced in the Statement of the Assembly Bill is the recently enacted amendment to SFRA that, among other things, eliminates Adjustment Aid to JCBOE.

209. Following the passage of the Payroll Tax Statute, Jersey City adopted Ordinance 18-133 implementing a 1 % employer payroll tax to take effect on January 1, 2019 (the “Payroll Tax Ordinance”). Attached hereto as **Exhibit C** is a true and correct copy of the Payroll Tax Ordinance.

210. Upon information and belief, revenue from the payroll tax will not be collected until April 30, 2019.

211. The Payroll Tax Statute and the Payroll Tax Ordinance contain no guaranteed revenue amount, nor do they provide that the revenue must be of a sufficient amount to fully offset JCBOE's loss of Adjustment Aid as a result of recent amendments to SFRA.

212. Upon information and belief, no formal analysis has been done by the New Jersey Office of Legislative Services regarding the anticipated revenue from the payroll tax that will be available to JCBOE to help in offsetting losses in state school aid.

213. A review of data regarding the levels of state school aid that JCBOE will receive in the 2019-20 school year makes it possible to determine when the payroll tax education trust fund may be depleted as a result of reductions in state aid. See Wyns Cert., ¶ 177.

214. If the payroll tax generated revenue of \$40 million per year, which would require a payroll subject to the ordinance of \$4 billion, JCBOE's trust fund would be depleted by the 2021-22 school year, and in fact would be negative in that year. Id. at ¶ 180.

215. The 2021-22 school year is three years before the complete phase out of Adjustment Aid as set forth in the recent amendments to SFRA.

216. If the payroll tax generated revenue of \$50 million per year, which would require a payroll subject to the ordinance of \$5 billion, JCBOE's trust fund would be depleted by the 2021-22 school year. Id. at ¶ 181.

217. The 2021-22 school year is three years prior to the complete phase out of Adjustment Aid as set forth in recent amendments to SFRA.

218. If the payroll tax generated revenue of \$60 million per year, which would require a payroll subject to the ordinance of \$6 billion, JCBOE's trust fund would be depleted by the 2022-23 school year, and in fact would be negative in that year. Id. at ¶ 182.

219. The 2022-23 school year is two years prior to the complete phase out of Adjustment Aid as set forth in recent amendments to SFRA.

220. If the payroll tax generated revenue of \$70 million per year, which would require a payroll subject to the ordinance of \$7 billion, JCBOE's trust fund would be depleted by the 2022-23 school year, and in fact would be negative in that year. Id. at ¶ 183.

221. The 2022-23 school year is two years prior to the complete phase out of Adjustment Aid as set forth in recent amendments to SFRA.

222. If the payroll tax generated revenue of \$80 million per year, which would require a payroll subject to the ordinance of \$8 billion, JCBOE's trust fund would be depleted by the 2023-24 school year, and in fact would be negative in that year. Id. at ¶ 184.

223. The 2023-24 school year is one year prior to the complete phase out of Adjustment Aid as set forth in recent amendments to SFRA.

224. Additionally, while the Statement of the Assembly Bill indicates that the Payroll Tax Statute was enacted to offset losses in Adjustment Aid as a result of recent amendments to SFRA, the Payroll Tax Statute actually provides that revenue from the tax is to be used to cover loss of all state school aid, not just Adjustment Aid. N.J.S.A. 40:48C-15(1)(d)(2).

225. As such, to the extent there are reductions in other forms of state school aid, payroll tax revenue will not replace Adjustment Aid in dollar for dollar exchange.

226. An additional limitation on the capacity of payroll tax revenue to offset losses in Adjustment Aid to JCBOE is that, unlike Adjustment Aid, charter schools in Jersey City are entitled to revenue generated by the payroll tax. N.J.S.A. 40:48C-15(d)(1).

227. Even if the revenue generated by the payroll tax were sufficient to cover the loss of Adjustment Aid, which will not be the case, it will not replace Adjustment Aid losses to non-charter public schools in JCBOE on a one to one basis since the payroll tax revenue will be shared with charter schools.

228. Therefore, it is virtually certain that payroll tax revenue will be less than the loss of Adjustment Aid every year.

229. This estimated payroll tax collection is far below the amount of Adjustment Aid that JCBOE will lose as a result of the recent amendments to the SFRA, to say nothing of the shortfall to JCBOE's Adequacy Budget.

230. Furthermore, because JCBOE's tentative budget was submitted on March 20, 2019, prior to any payroll tax revenue being collected or distributed to JCBOE, JCBOE cannot include any payroll tax revenue in its tentative 2019-20 budget, while the budget will reflect the loss of over \$27 million in Adjustment Aid.

231. The Payroll Tax Statute and Ordinance was recently the subject of on-going litigation, proceeding under the caption Mack-Cali Realty Corp., et al. v. State of New Jersey, et al., Docket No.: HUD-L-4903-18.

232. In that matter, the trial court granted the State's motion to dismiss, effectively permitting the payroll tax to go into effect in Jersey City.

233. However, this decision will likely be appealed and a stay of payroll tax in Jersey City may be sought and obtained, further calling into question whether JCBOE will receive funding from the payroll tax in the near future.

234. JCBOE has the potential to ensure that its students receive the best possible opportunity for a quality education, and to aid them in becoming productive members of society, but the current public-school financing system as recently amended ensures that JCBOE efforts will go unrealized.

LEGAL CLAIMS

COUNT I

(Thorough and Efficient Education – SFRA is Unconstitutional)

235. Plaintiffs repeat and restate the allegations in the foregoing paragraphs of the Complaint as if fully set forth herein.

236. The New Jersey Constitution provides, in pertinent part, that “[t]he Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all children in the State between the ages of five and eighteen years old. N.J. Const. art. VIII, § 4, ¶ 1 (“Thorough and Efficient Clause”).

237. The Thorough and Efficient Clause of the New Jersey Constitution makes a thorough and efficient education a fundamental right for all New Jersey children, including JCBOE’s students.

238. The Thorough and Efficient Clause provides that it is the State’s obligation to ensure that the students of JCBOE receive a thorough and efficient education.

239. As set forth above, the Legislative findings incorporated into SFRA state that the “formula established under [SFRA] is the product of a careful and deliberative process that first involved determining the educational inputs necessary to provide a high-quality education,

including specifically addressing the supplemental needs of at-risk students and those with limited English proficiency (LEP), and a determination of the actual cost of providing those programs. The formula provides adequate funding that is realistically geared to the core curriculum content standards, **thus linking those standards to the actual funding needed to deliver that content.**”
N.J.S.A. 18A:7F-44(i).

240. The SFRA is **only** constitutional to the extent that it ensures that the resources necessary for a thorough and efficient education, defined by CCCS, are provided. Abbott XX, 199 N.J. at 170.

241. As the Adequacy Budget was developed to ensure that districts had the resources necessary to provide CCCS, funding for a thorough and efficient education must be at the Adequacy Budget level and any amount of funding below that is violative of the Thorough and Efficient Clause.

242. The Supreme Court has held that former Abbott/SDA District’s, which includes JCBOE, are entitled to special constitutional consideration.

243. While the State can meet its constitutional obligation of providing a thorough and efficient education to the students of New Jersey by delegating some of that obligation to local school districts, if any shortfalls exist in funding necessary to provide a thorough and efficient education, the obligation falls on the State to ensure sufficient funding. Robinson v. Cahill, 69 N.J. 133, 142 (1975).

244. Since 2009, the second year of SFRA implementation, JCBOE school funding has never matched its Adequacy Budget, meaning that since 2009, JCBOE has not received sufficient funding for the resources necessary to provide a thorough and efficient education. See Wyny Cert., ¶ 15.

245. The sum of JCBOE's Adequacy Budget deficit since 2009 exceeds half a billion dollars, all incurred while JCBOE was under State control. Id. at ¶ 142.

246. Defendants have failed to ensure that the students of JCBOE receive funding that, at a minimum, equals the Adequacy Budget and as such, has failed to ensure that the students of JCBOE have obtained a thorough and efficient education for the past ten (10) years, a time in which JCBOE was under State control.

247. While the Court in Abbott XX found SFRA facially constitutional, it recognized that there was "no absolute guarantee that SFRA will achieve the results desired by all. SFRA deserves the chance to prove in practice that, as designed, it satisfies the requirements of our constitution." 199 N.J. at 169.

248. JCBOE, however, continues to fall further below adequacy, with funding in JCBOE for the 2018-19 school year at \$103,713,919 below the Adequacy Budget and at \$157,077,833 below the Adequacy Budget for the 2019-20 school year. See Wyns Cert., ¶ 158.

249. Not only has JCBOE's Adequacy Budget not been fully funded since the 2008-09 school year, but also state aid to JCBOE has not been fully funded for several school years during this time period, namely in the 2010-11 school year (which resulted in the Abbott XXI decision), the 2017-18 school year, and the 2018-19 school year.

250. In the 2010-11 school year, JCBOE received \$26,835,520 less in funding than required under the SFRA formula, contributing to the failure of to JCBOE fund its schools at the Adequacy Budget level. See Wyns Cert., ¶ 54.

251. As a result of the Appropriations Acts enacted in the 2017-18 and 2018-19 school years, state aid has been reduced from what JCBOE should have received pursuant to SFRA. Id. at ¶¶ 123, 140

252. In the 2017-18 school year, JCBOE received \$8,375,597 less in funding than required under SFRA, contributing to a shortfall of JCBOE's funding in the amount of \$101,713,909 below adequacy for that school year. Id. at ¶ 123.

253. In the 2018-19 school year, JCBOE received \$10,954,857 less in funding than required under the SFRA, contributing to a shortfall of JCBOE's funding in the amount of \$103,749,652 below adequacy for the current school year. Id. at ¶ 140.

254. Due to these shortfalls in state aid, Defendants essentially replaced SFRA with an underfunded version of the statute, actions which have been found to violate the New Jersey Constitution. Abbott XXI, 206 N.J. at 360.

255. In addition to this shortfall in funding, Defendants have underfunded Extraordinary Aid since the SFRA's inception, resulting in a total shortfall of \$13,722,026, and only 62.8% of the required amount, from the 2008-09 through 2017-18 school years. See Wyns Cert., ¶ 169.

256. Extraordinary Aid is aid from the State that provides reimbursements to districts for special education expenses that exceed \$40,000.00. Abbott XX, 199 N.J. at 156.

257. For costs of special education exceeding \$40,000.00 for direct instructional and support services, SFRA mandates that the State reimburse the district ninety percent of the costs. Id. at 156-57.

258. For private out-of-district special education programs, SFRA requires that the State reimburse districts seventy-five percent of the costs exceeding \$55,000.00. Id. at 157.

259. Since SFRA was enacted and implemented in the 2008-09 school year, however, Defendants have failed to fully reimburse JCBOE the costs expended for special education that it was required to provide, in violation of SFRA.

260. Specifically, Defendants have failed to fully reimburse JCBOE the costs expended for special education that it was required to provide in each of those six school years under SFRA resulting in a total shortfall for those school years of \$13,722,026 and only 62.8% of the required amount. See Wyns Cert., ¶ 169.

261. Based upon the reimbursement level for the 2017-18 school year of 50.12% and the Extraordinary Aid funding that is available in the State budget for FY 2019 and recommended for FY2020, it is expected that the reimbursement level for the 2018-19 and 2019-20 school years will be no more than 50% of the required level under SFRA. Id. at ¶ 170.

262. Defendants failure relating to Extraordinary Aid has caused JCBOE to fall further below adequacy, thus contributing to Defendants' failure to assure that JCBOE students receive a thorough and efficient education.

263. As the Court in Abbott XXI held, former Abbott/SDA districts' "right to full funding is a constitutional mandate." 206 N.J. at 463.

264. In Abbott XX, when the Court authorized Defendants to replace the then current educational funding method with SFRA, it did not authorize "some underfunded version of SFRA" but instead required full funding. Abbott XXI, 206 N.J. at 360.

265. The Supreme Court has established that if the State fails to fully fund the SFRA formula or changes the formula in a way that reduces funding to a former Abbott/SDA District, the State bears a heavy burden of proof to demonstrate that those acts are compatible with the constitutional requirements of providing a thorough and efficient education.

266. As set forth above, Defendants have failed to ensure that the Adequacy Budget level of funding has been achieved in JCBOE.

267. As such, Defendants have failed to provide a thorough and efficient education to the students of JCBOE in violation of their constitutional mandate to do so.

268. Defendants' violation of the New Jersey Constitution has irreparably harmed the students of the JCBOE by failing to ensure funding at a level necessary to provide a thorough and efficient education, specifically the Adequacy Budget.

269. This harm will ultimately limit students' educational opportunities and irreversibly affect their long-term prospects for employment and their ability to be productive members of society.

WHEREFORE, Plaintiffs demands the following relief:

- a. A declaration that Defendants have failed to provide necessary funding to JCBOE to enable it to reach its Adequacy Budget;
- b. A declaration that Defendants have failed to provide full funding to JCBOE for all state aid categories set forth in SFRA;
- c. A declaration that that Defendants have failed and continue to fail to provide a thorough and efficient education to the students of JCBOE's schools;
- d. A preliminary and permanent injunction enjoining Defendants from providing state aid in amounts below that which is required by SFRA to JCBOE;
- e. A preliminary and permanent injunction enjoining Defendants from reducing funding to JCBOE causing it to fall further below the Adequacy Budget;
- f. An order requiring Defendants to provide funding to JCBOE to enable it to fund its schools at the Adequacy Budget level;
- g. Attorneys' fees and costs of this action; and
- h. Such other and further relief as the Court determines to be just and appropriate.

COUNT II
(Thorough and Efficient Education-Challenge to SFRA Amendments)

270. Plaintiffs repeat and restate the allegations of the foregoing paragraphs of the Complaint as if fully set forth herein.

271. To provide the funding necessary for a thorough and efficient education, school funding must be at the level set forth by the Adequacy Budget.

272. As set forth above, JCBOE has been “below adequacy” since the 2009-10 school year. See Wynn Cert., ¶ 15.

273. When the Supreme Court ruled that SFRA was facially constitutional in Abbott XX, the plaintiffs argued that SFRA failed to pass constitutional muster because it failed to account for municipal overburden in the former Abbott/SDA Districts. 199 N.J. at 165.

274. Municipal overburden, a concern in the Abbott line of cases since Abbott II and even the Robinson v. Cahill lines of cases which preceded them, is “a condition in many poorer districts where the cost of local government-, police, firefighters, other municipal employees, road maintenance, garbage collection, etc.- is so high that the municipality and the school district are reluctant to increase taxes for *any* purpose, including education.” Abbott v. Burke, 119 N.J. 287, 325 (1990).

275. The Court in Abbott XX found that SFRA was designed to eliminate the concern of municipal overburden, specifically that the SFRA formula was “designed to supplement the funding for those districts that cannot raise their LFS to the amount required, to ensure that they still receive their Adequacy Budget and are fully funded.” Abbott XX, 199 N.J. at 165.

276. The Court in Abbott XX recognized specifically that Adjustment Aid was included in SFRA to make up the difference between a district’s LFS and its previous year’s tax levy. Id.

277. In order to ensure that municipal overburden would not occur, SFRA provides for its periodic review, requiring the Commissioner to study limitations on growth levels in districts and the districts' ability to meet the LFS. Id.

278. While the State has produced two Educational Adequacy Reports, both well past their respective deadlines with the third not yet being produced notwithstanding its due date in September 2018, these reports have not been complete as they failed to address districts such as JCBOE's ability to meet their LFS. See Wyns Cert., ¶¶ 17-19.

279. Notwithstanding that no review of districts' ability to meet their LFS has occurred, the defendants in Abbott XX expected every district to be able to contribute its fair share and, while achievement towards that goal proceeded, Adjustment Aid would be reduced. Abbott XX, 199 N.J. at 165-66.

280. JCBOE, however, has been falling further below adequacy since SFRA was first implemented. See Wyns Cert., ¶ 146.

281. In fact, JCBOE's local levy gap continues to increase, as opposed to decrease as predicted by the Supreme Court when it found SFRA facially constitutional.

282. The conditions highlighted by the Court in Abbott XX for the continuance of Adjustment Aid, specifically that districts be afforded time to incrementally raise their local tax levy to the LFS level to avoid significant tax levy increases, do not yet exist in JCBOE as Jersey City would have to increase their property tax rate by 33% based upon 2018 Equalized Property values. See Wyns Cert., ¶ 162.

283. Students in JCBOE have not received a thorough and efficient education since the 2008-09 school year, the only time that JCBOE funding was at the Adequacy Budget level, and

Defendants' recent action in amending SFRA to phase out Adjustment Aid only exacerbates JCBOE's below adequacy financial condition.

284. By amending SFRA to eliminate Adjustment Aid, as set forth in N.J.S.A. 18A:7F-68(b), Defendants will cause JCBOE to fall further below adequacy.

285. Defendants bear the burden of demonstrating that any significant changes to the funding formula set forth in SFRA do not undermine the effort to ensure that students in all districts, and especially the former Abbott/SDA districts, receive a constitutionally required thorough and efficient education.

286. The recent amendments to SFRA cause direct harm to the students of JCBOE as a consequence of the reduction in school funding.

287. Jersey City's Adequacy Budget for the 2019-2020 school year is \$622,876,777. See Wyns Cert., ¶ 152.

288. As a result of the phase out of Adjustment Aid due to amendments to SFRA, JCBOE will receive \$27,192,633 less in Adjustment Aid for the 2019-20 school year than it did in the previous school year. Id. at ¶ 150.

289. With the 13% reduction in adjustment aid for the 2019-2020 school year, JCBOE will receive \$465,798,894 for education funding for the 2019-2020 school year from Equalization Aid, its local levy, Adjustment Aid, and Educational Adequacy Aid. Id. at ¶¶ 152-158

290. The amount of funding JCBOE will receive for the 2019-2020 school year for education funding is \$157,077,883 less than the amount set forth in JCBOE's Adequacy Budget. Id. at ¶ 158.

291. As a result of the drastic reduction in school aid, JCBOE will be forced to reduce expenditures in order to balance its budget, as set forth at paragraph 135 above.

292. As a result of the aforementioned cuts and changes to the educational services that JCBOE provides to its students, JCBOE's ability to provide its students with an education in compliance with CCCS will be eliminated.

293. As a result of the aforementioned cuts and changes to the educational services that JCBOE provides to its students, graduation rates for JCBOE's students will be negatively affected.

294. As a result of the aforementioned cuts and changes to the educational services that JCBOE provides to its students, standardized test scores for JCBOE's students will be negatively affected.

295. The elimination of Adjustment Aid, and the corresponding cuts in expenditures, as set forth above and necessitated by the reduction in aid, violate the Thorough and Efficient Clause.

296. Defendants have failed to provide JCBOE with the funding needed to provide a thorough and efficient education to the students of JCBOE, thereby violating the Thorough and Efficient Clause.

297. The impacts upon JCBOE students will increase year-by-year as Adjustment Aid is phased out between now and the 2024-25 school year.

298. The elimination of Adjustment Aid will reduce funding for JCBOE in the amount of at least \$209,174,103 in the 2024-25 school year. See Wyns Cert., ¶ 163.

299. Even if the Payroll Tax Statute and Ordinance are upheld as constitutional, the payroll tax revenue will not be sufficient to cover the reduction and ultimate elimination of Adjustment Aid. See Wyns Cert., Ex. Z.

300. These reductions in, and the ultimate elimination of, Adjustment Aid, will cause JCBOE to fall further below the Adequacy Budget, which represents the amount necessary to provide a thorough and efficient education.

301. Defendants' violation of the New Jersey constitution will cause irreparable harm to the students of Jersey City by eliminating instructional and support staff, as set forth in paragraph 135 above, exacerbating the issue within JCBOE schools where instructional and support staff are already well below SFRA modeling.

302. This harm will ultimately limit students' educational opportunities and irreversibly affect their long-term prospects for employment and their ability to be productive members of society.

WHEREFORE, Plaintiffs demand the following relief:

- a. A declaration that the reductions in and ultimate elimination of Adjustment Aid provided by N.J.S.A. 18A:7F-68(b) denies JCBOE the ability to provide its students with a thorough and efficient education;
- b. A preliminary and permanent injunction of N.J.S.A. 18A:7F-68(b);
- c. Attorneys' fees and costs of this action; and
- d. Such other and further relief as the Court determines to be just and appropriate.

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-3, Angelo J. Genova, Esq. is hereby designated as trial counsel for Plaintiffs in the above matter.

CERTIFICATION

Pursuant to Rule 4:5-1, I hereby certify to the best of my knowledge that the matter in controversy is not the subject of any other action pending in any court or the subject of a pending arbitration proceeding, Additionally, I hereby certify to the best of my knowledge that I know of no party who should be joined in the action at this time.

GENOVA BURNS LLC

*Attorneys for Plaintiffs,
Jersey City Board of Education and
E.H., a minor, by his guardian ad litem
Shanna C. Givens*

s/ Angelo J. Genova

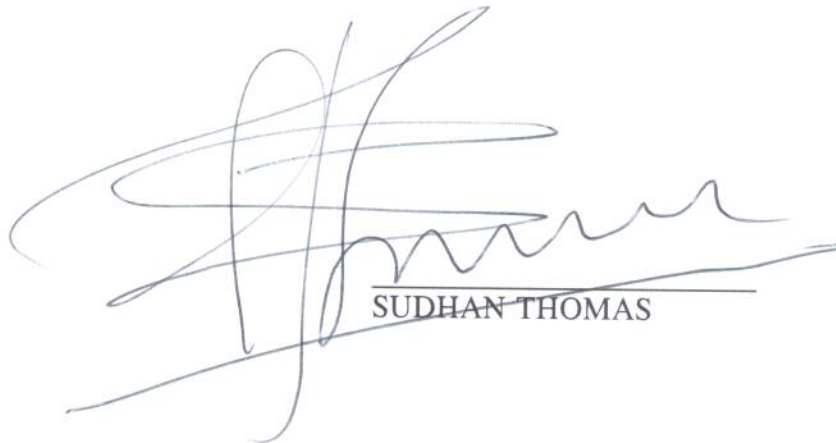
ANGELO J. GENOVA
JENNIFER BOREK

Date: April 29, 2019

VERIFICATION

I, Sudhan Thomas, am President of Plaintiff Jersey City Board of Education. I hereby certify that the facts set forth in the accompanying Verified Complaint are true and accurate based upon my first-hand knowledge, except as to those allegations recited upon information and belief, are a matter of public record, or are within the first-hand knowledge of others who have certified to the information.

Dated: April 29, 2019



SUDHAN THOMAS

VERIFICATION

I, Franklin Walker, am the Acting Superintendent, of the Jersey City Public Schools. I hereby certify that the facts set forth in the accompanying Verified Complaint are true and accurate based upon my first-hand knowledge, except as to those allegations recited upon information and belief, are a matter of public record, or are within the first-hand knowledge of others who have certified to the information.

Dated: April 29, 2019

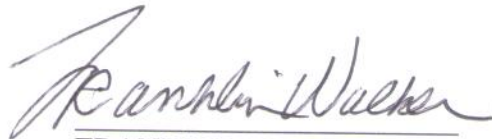

FRANKLIN WALKER

EXHIBIT A

Report on the Cost of Education

**Allen Dupree
New Jersey Department of Education
Division of Finance
Office of School Funding**

**Dr. John Augenblick
Justin Silverstein
Augenblick, Palaich and Associates, Inc.**

Executive Summary

The following report was prepared by the New Jersey Department of Education (the Department) and Augenblick, Palaich, and Associates, Inc. (APA), a nationally recognized education consulting firm with more than 20 years experience in education policy and school finance. The report describes work undertaken by staff from both organizations over the past several years.

The primary purpose of this report is to calculate the costs New Jersey school districts face in meeting state performance and accountability standards. Costs addressed include:

1. A per-student “base” cost (which reflects only the cost of serving students with no special needs); and
2. Adjustments to the base cost that reflect the added cost of serving special need students (including special education students, at-risk students and English language learners).

To identify these costs, the report used two nationally recognized study approaches. The Department weighed the strengths and weaknesses of each approach, and then selected one – the Professional Judgment Panel (PJP) approach – whose results form the basis of the report’s findings. The tables below identify the median base cost and added cost weights identified using the PJP approach.

These costs reflect the price of putting resources into schools and districts that panels of educators from across the state say are needed for students to meet New Jersey’s academic performance expectations. It is critical to note, however, that panelists only identified a set of resources to be used in a series of *hypothetical* school scenarios and did not specifically examine any existing school or district in the state. It is therefore not appropriate to suggest that any specific resources or programs identified by the panels should be applied in all New Jersey schools. Nor can the report be used to determine which portion of these resources should be paid for at the state or local level.

Instead, the panel recommendations are perhaps best viewed simply in terms of identifying an overall level of funds which should be available to purchase personnel, resources, and programs as individual school or district leaders see fit. The advantage of such an approach is that it gives the flexibility to educators to decide how best to meet the specific needs of their students. These are the professionals who: 1) work with children in classrooms on a daily basis; 2) have the experience and training to make the best decisions possible on the types of resources needed for students to meet state standards; and 3) have the greatest understanding of the unique characteristics of their district and student population that might warrant a different way of deploying resources.

As shown in the tables below, the process used identified a base cost and added weights for students with special needs in both K–8 and K–12 districts. The base cost shown

below is only a median cost. For more information on how this cost might vary by district size or grade span, please see Sections V and VI below.

Median Base Cost for New Jersey's K–8 and K–12 districts

K – 8	\$7,367
K – 12	\$8,496

Added Cost Weights for Students with Special Needs

	K – 8 Districts	K – 12 Districts
Special Education		
Speech	0.46	0.41
Moderate	1.95	1.42
Severe	7.39	4.08
Extended School Year	0.48	0.42
Preschool Disabled	3.23	2.84
At-Risk	0.63	0.45
LEP	0.81	0.37

Section 1: Introduction

In 2002, the New Jersey Department of Education (Department) began conducting analyses to develop recommendations for a new State education funding law and to determine the cost of providing educational services consistent with the state's Core Curriculum Content Standards (Standards). These analyses followed up on a conference sponsored by the Department that brought together educators from across the state to discuss studies that were being undertaken in other states. These studies use different methodologies to calculate the costs school districts face *in meeting state performance and accountability standards*. Costs addressed by the studies typically include:

1. A "base" cost (which reflects only the cost of serving students with no special needs); and
2. Adjustments to the base cost that reflect the added cost of serving special need students (including special education students, at-risk students and English language learners).

After considering the various methodologies used in other states, the Department decided to utilize two approaches, the Successful School Districts (SSD) approach, and an approach using Professional Judgment Panels (PJP). To conduct these approaches, the Department entered into a contract with Augenblick, Palaich and Associates, Inc. (APA, formerly Augenblick and Myers), a nationally recognized education consulting firm with extensive experience assisting government entities and stakeholder organizations with this type of analysis. APA's John Augenblick and Justin Silverstein were primarily responsible for the work undertaken for the Department.

As discussed in the next section, the underlying assumption of the SSD approach is that a uniform base cost figure can be estimated by examining the basic expenditures of New Jersey school districts that fulfill state education accountability expectations. The underlying assumption of the PJP approach is that all education service delivery costs – including a base cost and adjustments for students with special needs – can be determined by costing out those services that panels of New Jersey educators identify as being needed in hypothetical school districts. Neither of the approaches considers the costs of transportation or capital.

Section II: Methods for Determining the Cost of Education

Over the past ten years, researchers and policy experts have developed several approaches to calculate the resources needed for schools and districts to achieve a particular student performance level. These efforts are designed to identify a cost that has meaning beyond simply reflecting available state revenue. Four approaches have emerged as ways to determine such a cost:

- (1) The successful school district approach (SSD);
- (2) The professional judgment panels approach (PJP);
- (3) The evidence-based approach; and

(4) The cost function approach.

The logic of the successful school district approach (SSD)¹ is that one can identify the cost of providing a quality education by reviewing the expenditures of those school districts in which students are meeting some measurable performance standard. The process begins by developing criteria by which school districts can be evaluated. Data are analyzed to identify the districts that meet the criteria and financial data are used to calculate per pupil regular education expenditures. The median expenditure among the successful districts is deemed the necessary base cost for providing quality educational services to students with no special needs. Importantly, the SSD approach can only identify a base cost. If the full cost of meeting the standard is to be identified, another approach must be used to determine adjustments required for special needs students. The SSD method has been used to estimate the cost of education in a number of states, including Colorado, Kansas, Maryland, Mississippi, Missouri, New York and Ohio.²

The professional judgment panels approach (PJP) begins with the identification of a set of desired performance standards or outcomes and the creation of at least one hypothetical school district. Next, a panel (or multiple panels) of education practitioners are assembled and tasked with answering the question, “What resources do you need to provide students in the hypothetical district(s) the educational opportunities that will allow all of them to meet the specified educational standards?”

The panelists recommend resources for a school district that has no students with special needs. Then they recommend additional resources associated with providing programs and services for special need students. Panelists are instructed to identify resources without regard to their cost; however, the panelists are also told to limit recommendations to only what is necessary to meet the educational outcomes or standards and to refrain from constructing a “dream school.” Once the panelists have completed their work, the cost of the specified resources is determined. The result of this process (known as “costing out”) yields a base per pupil amount for general education as well as the additional cost of providing services to students with special needs. Maryland, Kansas, Oregon and New York are a few states in which the PJP approach has been applied.³

The Evidence-Based approach (EB) represents a third method used to assess educational costs associated with meeting performance standards. This method is similar to PJP in that the resources that are necessary to meet an educational objective are identified and the cost of such resources is determined. The difference between the two methods is how the resources are identified. While the PJP approach relies on the collective judgment of practitioner panels, the EB method utilizes the results of previously existing studies to determine what resources are necessary.

¹ If sufficient data are available, one can conduct the analysis at the school, rather than the district level.

² A Costing Out Primer, published by the National Access Network. The report is available at www.schoolfunding.info/resource_center/costingoutprimer.php3.

³ A Costing Out Primer.

A last approach that has been explored to identify costs associated with meeting education standards is the cost function (or econometric modeling approach). Using complex statistical procedures, this process uses a variety of input data and outcome measures to predict the cost of providing educational services that will yield a specific level of educational outcomes. The approach is based on observed relationships between student performance and district expenditure data after controlling for other factors.

Each of the approaches discussed above has certain advantages and limitations to consider. Of the four methods, SSD is the most easily implemented once the necessary data are available. Additionally, the concept is intuitive and readily understood by a wide range of stakeholders. There is, however, one notable weakness. As previously mentioned, this method is not suitable for determining the additional costs associated with serving students with special needs, and requires that an alternative approach be used to make that determination.⁴

Unlike SSD, the PJP analysis provides both a base cost and the adjustments for special needs students. Because it actively involves school and district personnel, the PJP process is also very transparent. Some have argued, however, that there is not a clear connection between the resources that result from this process and any set of educational outcomes.

The EB approach attempts to rely on research that links specific educational programs to student outcomes. However, there is no clear consensus among studies regarding the efficacy of any specific set of educational reforms working for all students in all districts. The research used to justify certain resources also does not link these resources to the educational objectives or performance standards of any specific state. Additionally, the approach does not address a number of costs that districts face in providing education services such as operations and maintenance.

The cost function methodology seeks to link performance and spending data. The method suffers from two important shortcomings. First, the approach relies on large amounts of specific data that is often not readily available. Second, the procedure involves the use of complex statistical techniques that are not readily understood by the parties who would be directly impacted by the results.

Given the relative strengths and weaknesses of each approach, the Department decided to implement two methods, SSD and PJP. The following sections of this report explain the implementation of each method in more detail.

Section III: Successful School Districts

The SSD methodology is conceptually straightforward and can be readily implemented if certain data are available. The cost of providing quality educational services is determined by identifying districts that have met some predetermined level of student

⁴ “Calculation of the Cost of an Adequate Education in Maryland in 1999 – 2000 Using Two Different Analytic Approaches” Augenblick and Myers, Inc., September 2001.

performance and examining the base cost expenditures in these districts. In this study, the median basic expenditure per pupil among these successful districts is considered to be the base cost for all districts. The analysis is limited to K – 8 and K – 12 school districts in order to align the costs with those obtained using the PJP methodology.

Three steps were required to carry out the SSD analysis in New Jersey. First, measurable criteria for defining “success” were developed. Second, analysis was conducted to determine which school districts satisfied the chosen criteria. Third, fiscal data was analyzed to determine the base spending of identified successful school districts. The base cost derived from the SSD methodology was derived from all districts that satisfied the success criteria.

In establishing the criteria for defining a successful district, the analysis focused on student performance on the four State assessments administered during the 2004 – 2005 school year.⁵ While it is understood that such exams do not measure all of the benefits schools impart on their students, there are at least three key reasons why these represent the best parameters for measuring school district success:

- 1) ***Student performance on these exams is a direct measure of districts’ ability to educate students to the CCCS.*** The State exams are designed to assess students’ mastery of the CCCS at a given point in the academic career. This is consistent with the objective of determining the cost of providing educational services that meet the State’s Standards.
- 2) ***The measures are uniform for all districts and are not based on self-reported data.*** Other available student performance measures are based on self-reported data that are not routinely verified by the Department and do not allow for systematic comparisons across districts. Using State assessment scores ensures that all districts are compared to a standard using the same rubric.
- 3) ***The standards for success have already been established and are known by school district officials.*** N. J. A. C. 6A:8-4.4 specifies the proficiency rates school districts are to achieve in order to meet the adequate yearly progress (AYP) thresholds required under the State’s *No Child Left Behind* plan. Table 1 summarizes the AYP thresholds applied to the 2004–05 school year assessments.

Table 1
Required Proficiency Rates on State Assessments: 2004 – 2005 School Year

	Language Arts	Mathematics
NJ ASK3	75	62
NJ ASK4	75	62
GEPA	66	49
HSPA	79	64

⁵ The four State assessments are the New Jersey Assessment of Knowledge and Skills for third and fourth grade (NJ ASK3 and NJ ASK4), the Grade Eight Proficiency Assessment (GEPA) and the High School Proficiency Assessment (HSPA).

Given that the success criteria are defined, available data was evaluated to determine which districts met the standards. This analysis utilized the districts' assessment data as summarized in the 2005 *New Jersey School Report Card* (the downloadable databases are available at <http://education.state.nj.us/rc/rc05/database.htm>). Districts were considered successful if the proficiency rate for the total student population was greater than or equal to the proficiency rate thresholds shown in Table 1 for all tests administered in the school district. Any test data that were suppressed for confidentiality reasons did not impact a district's potential success status.

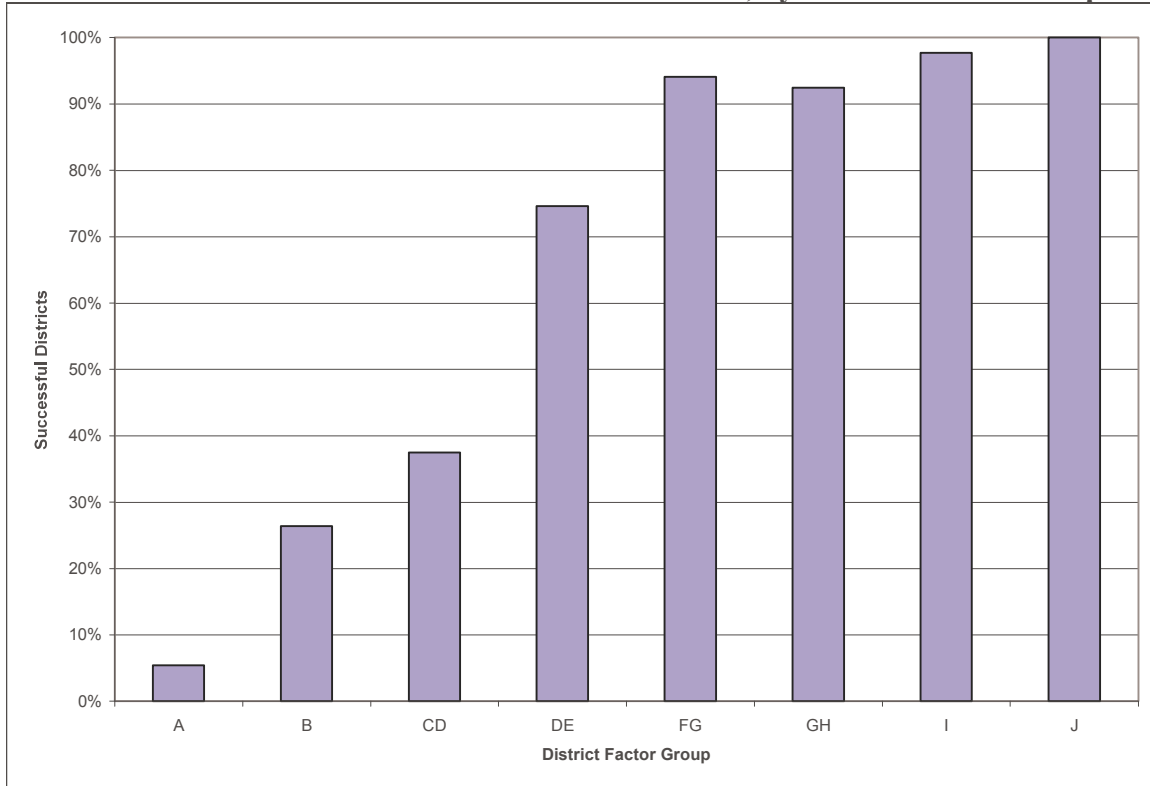
It should be noted that these data are different in two key respects relative to the information used to determine whether or not a district is in need of improvement under NCLB. First, the report card data used in this analysis provide test scores when at least 11 students were tested. For purposes of determining AYP status, there must be at least 20 valid test scores. Second, the report card data include all students who sat for the exam in a given district, while the AYP determination omits students who were not continuously enrolled in the school for the past year. The result of these differences is that the criteria used to identify successful districts are more stringent than those used to determine a district's AYP status. Districts are more likely to be assessed since the number of students needed to be included in the analysis is lower. Additionally, the inclusion of students who are in the school for less than one year makes attaining the threshold more challenging (since this is a group that typically does not perform as well on State assessments as students who have not transferred schools in the past year).

A review of the assessment data from the 2004 – 2005 school year identified 305 New Jersey school districts in which the total student population successfully met the established criteria. The 305 districts represented 69 percent of the K–8 or K–12 districts included in the analysis (these districts, as well as the districts' per pupil basic education expenditures for the 2004–05 school year, are listed in Appendix 1).⁶ Nearly three-quarters of K–8 districts and 64 percent of K–12 districts were classified as successful using this procedure. Figure 2 shows the percent of districts in each DFG classification that were classified as successful.

Once the successful districts were identified, enrollment and financial data were used to determine the basic spending per student for each district. Specifically, the data from the October 2004 Application for State School Aid (ASSA) were used to provide a count of students on roll in the relevant districts. The fiscal year 2005 audit summary data provided all of the expenditures incurred by districts. It was necessary to omit expenditures that were not related to basic student education or which tended to vary greatly from one year to the next (such as legal judgments against the school district). Additionally, capital and transportation costs were excluded. Appendix 2 provides a listing of the line items that were incorporated into the analysis.

⁶ One district was omitted due to an insufficient number of students taking all tests administered in the district that year.

Figure 2
Percent of School Districts Classified as Successful, by District Factor Group



Having identified the pertinent expenditures, the basic expenditures per pupil in each successful district was calculated and the median expenditure across districts was defined as the overall “base cost.” Table 2 shows these figures for K–8 and K–12 districts.

Table 2
Cost of Education Using Successful School District Methodology

	K – 8 Districts	K – 12 Districts
Median Per Pupil Expenditure	\$8,004	\$8,493
Number of Districts	164	141

Section IV: Professional Judgment Panel

The PJP method involves asking a panel (or multiple panels) of education practitioners to identify the resources necessary to educate students in a hypothetical school district to a specific educational standard. There are three stages involved when utilizing this approach. First, one must develop a number of hypothetical school districts that reflect the actual demographics of school districts in the state. Second, panels consisting of education professionals are assembled to determine what resources would be needed in the hypothetical school districts to obtain a specific set of academic outcomes. In the third stage, the resources identified as necessary by the panelists are “costed out.” The

resulting dollar amounts represent the cost of providing educational services consistent with the identified Standard.

Stage 1: Developing the Hypothetical School Districts

In the first stage of the process, the Department provided APA with detailed information regarding the size of New Jersey school districts and key student characteristics (such as the percent of students who are low-income, special education classified or exhibit limited English proficiency)⁷. As APA requested, districts were arrayed based on their total enrollment and placed into quintiles with approximately an equal number of students. For example, quintile 1 contained the 341 smallest school districts and had approximately 267,000 students. Since quintile 2 included larger districts, a similar number of students was obtained with only 106 districts. Table 3.A summarizes information relating to the quintiles and the percent of students in each who were low-income or limited English proficient. Table 3.B contains data related to the special education classification rates within each group. More detailed data (not shown) provided similar information by district grade span within each quintile.

Table 3.A
School District Characteristics, by Quintile

	# students	# districts	% Low Income	% LEP
Quintile 1	267,235.5	341	10.7	2.3
Quintile 2	268,120.5	106	11.9	2.5
Quintile 3	265,135.0	56	16.1	3.5
Quintile 4	262,585.5	33	22.0	5.5
Quintile 5	275,675.5	15	47.8	7.3

Table 3.B
School District Special Education Distribution, by Quintile

	% Tier II	% Tier III	% Tier IV	% Total
Quintile 1	8.1	3.3	1.7	13.1
Quintile 2	7.9	3.6	1.7	13.2
Quintile 3	8.5	3.3	1.6	13.4
Quintile 4	8.1	3.0	1.6	12.7
Quintile 5	8.0	3.6	1.8	13.4

After reviewing the data, APA requested additional demographic information for six district groupings: 1) K–8 districts with enrollment less than 350 students, 2) K–8 districts with enrollment between 350 and 600 students, 3) K–12 districts with enrollment

⁷ For the purpose of this analysis, low-income, special education and limited English proficiency data were obtained from the districts' Application for State School Aid. The Special Education Annual Data Report was used to obtain information on the number of students who only receive speech therapy services.

less than 1,300 students, 4) K–12 districts with enrollment between 1,300 and 3,999 students, 5) K–12 districts with enrollment between 4,000 and 7,999 students, and 6) K–12 districts with at least 8,000 students. The information provided across the six groups, as shown in Appendix 3, included the number of school districts in the category, the total number of students and average enrollment, the average number of schools and school size, and the percent of students classified as low-income, limited English proficient or special education.

After analyzing the data, six hypothetical school districts were created, as shown in Table 4. One may notice that the grade spans included do not cover the full range of district grade spans that actually exist in New Jersey. This is because it was determined that it would be unnecessary to specify models for all extant district grade configurations. Since the resources are to be developed at the school level, it was decided that the resources could be rearranged afterwards to estimate the cost associated with other grade spans not included in the PJP analysis. This process is discussed in more detail in Section V of this report.

Stage 2: Professional Judgment Panel Meetings

Having developed the six hypothetical districts, the next stage was to assemble panelists to determine what resources were needed to provide all New Jersey students with the opportunity to meet the state’s performance standards. Three rounds of panel meetings were held:

1. In the first round, Department personnel provided recommendations of the resources needed in the six hypothetical schools.
2. During the second round multiple panels, representing various types of school districts throughout the state, reviewed and modified the resources identified in round one.
3. The third round used one panel of district-level policy makers from various school districts to provide a final set of recommendations.

Members of APA staff facilitated all panel meetings. The first panel meeting took place at the Department headquarters in Trenton from January 21 to 23, 2003. Seven Department employees were selected to participate in the panel based on their previous experience in school districts and expertise in education administration or other specific program area (such as special education). A list of participants and their job titles at the time the meeting was conducted is provided in Appendix 6.

The panelists were first given background materials and instructions that included key information about the process. They also received an abridged version of the Standards, required proficiency rates on the state assessments, and other graduation, school day, and school year requirements. These documents are included in Appendix 4. Next, the panelists began identifying the resources that would allow each hypothetical district to provide its students with the opportunity to achieve the Standards. The panelists’

Table 4
Characteristics of Hypothetical School Districts

	K – 8 Districts		Small	K – 12 Districts		
	Very Small	Small		Moderate	Large	Very Large
Enrollment Range	Less than 350	350 - 600	Less than 1,300	1,300 – 3,999	4,000 – 7,999	At least 8,000
Hypothetical District Enrollment	225	495	1,040	2,470	5,330	13,520
Number of Hypothetical Schools						
K – 5				3	6	15
6 – 8				1	2	5
9 – 12			1	1	1	3
Other	1 (k – 8)	1 (K – 8)	1 (K – 8)			
Hypothetical School Enrollment						
K – 5				380*	410*	416*
6 – 8				570**	615**	624**
9 – 12			320	760	1,640	1,387
Other	225	495	720			
Percent of Low-Income Students						
Low	10%	10%	10%	10%	10%	10%
Moderate	20%	20%	20%	20%	20%	20%
High					40%	40%
Very High						60%
Percent of Special Education Students						
Mild	4.0%	3.3%	2.6%	2.4%	2.0%	1.8%
Moderate	12.4%	11.5%	12.5%	11.2%	11.8%	11.0%
Severe	1.5%	1.8%	1.9%	1.7%	1.6%	1.7%
Percent LEP Students	1.2%	1.3%	2.8%	3.2%	4.4%	7.1%

* To reduce respondent burden, the panelists were asked to develop resources for a K – 5 school with 400 students.

** To reduce respondent burden, the panelists were asked to develop resources for a 6 – 8 school with 600 students.

recommendations included: 1) the resources needed assuming that none of the students possessed any special needs; and 2) additional resources for students who receive special education services, come from low-income families, or demonstrate limited English proficiency.

For the second round of panels, nominations for PJP participants were solicited. The Department sent letters to various education-related organizations requesting names of individuals to be included (the organizations from which nominations were requested are listed in Appendix 5). Upon receiving nominations, the Department contacted the individuals regarding their availability for the two-day meeting. After receiving responses from the nominated individuals, the Department developed a final list of invitations. The decision regarding who among the available nominees should be included on the panels was based on the desire to include a diversity of panelists along three dimensions: 1) current or previous work experience in specific positions (e.g., superintendents, principals, teachers, business administrators, special education, at-risk education, and English language learner specialists), 2) experience in school districts with different demographics (urban versus suburban and small versus large), and 3) experience working in different geographic areas of the state. Appendix 6 contains a list of those who were invited and their affiliation at the time that the meeting occurred.

The second panel meeting took place February 20-21, 2003, at the Holiday Inn in Jamesburg, NJ. The participants were divided into five groups: one group focused on the two K–8 models while the other four each focused on one of the K–12 hypothetical districts. In addition to the same instructions that were provided to the first panel members, this group also received a copy of the spreadsheets containing the resources recommended by the first panelists. Rather than specifying the resources in a vacuum, the groups reviewed and modified the original set of recommendations. Again, the resulting spreadsheets are not included in this report but are available from the Department upon request. Appendix 7 provides a list of the individuals who were invited to participate in the meeting and their affiliation at that time.

The Department convened a final group of panelists from school districts to review and modify the results from the second round (the invitees are listed in Appendix 8). In a meeting held at DOE headquarters on March 11-12, 2003, the panel received the same instructions and background material as the previous panel, as well as the spreadsheets completed from the second round of the process. This group made modifications that represented the final set of recommendations to be used to determine the cost of providing educational services to meet the Standards.

Appendix 9 contains the final series of tables that list the resources for each hypothetical district. The tables show the detailed resources for each district. The final hypothetical districts have resources for general education (which includes gifted and talented programs) special education, programs for at-risk students, and individuals with limited English proficiency as well as central office administration services.

Stage 3: Costing-Out Analysis

The third stage of the PJP work involved determining the cost of the resources specified by the panelists. The participants specified certain resources, such as instructional supplies and

materials, in terms of a per-pupil cost. Personnel resources, however, were expressed in full-time equivalent (FTE) terms. Calculating the cost of personnel required using some estimate of the salaries and benefits associated with each FTE position. Appendix 10 lists the salaries⁸ and benefits associated with the various personnel used to calculate the educational cost (benefits equal 20 percent of the salary). It should be noted that salary costs for certificated staff (such as teachers, administrators and student support personnel) is based on the median salary increased by 1.5 percent to account for differences observed between teachers' salaries in New Jersey and nearby states. Table 5 summarizes the costs that were derived using the final set of resources specified.

Table 5
Base and Additional Costs in Hypothetical School Districts

	V. Small K - 8	Small K - 8	Small K - 12	Moderate K - 12	Large K - 12	Very Large K - 12
District Level Costs						
District Administration	2,299	1,481	971	529	529	372
Operations & Maintenance	642	513	562	494	463	469
Other	112	111	117	263	328	286
Total General Education Costs						
School Level	7,004	5,758	7,126	6,928	6,816	6,889
Instruction	4,967	4,746	5,456	5,305	5,252	5,266
Support	1,397	721	912	916	888	909
School Administration	606	275	741	672	637	674
Operations & Maintenance	33	15	17	35	39	41
District Level Costs	3,054	2,105	1,649	1,286	1,320	1,126
Total Base Costs⁹	10,057	7,863	8,775	8,215	8,136	8,016
Additional Costs for Special Needs						
Special Education						
Mild	4,487	2,855	1,203	3,552	3,027	3,337
Moderate	16,495	14,113	11,452	12,978	10,974	11,455
Severe	69,840	47,179	30,657	37,018	33,459	33,881
Preschool Disabled	25,705	24,729	19,261	22,709	24,328	27,437
Extended School Year	3,698	3,839	3,569	3,697	3,269	3,421
Limited English Proficiency	8,570	4,335	3,386	2,751	2,792	3,381
Low-Income Students						
Low Concentration	4,218	4,882	4,266	3,732	3,607	3,690
Moderate Concentration	5,464	5,126	4,266	3,783	3,708	3,752
High Concentration					3,772	4,127
Very High Concentration						2,930

⁸ The median salary observed in current data for each position was used in the costing-out process. The median is a preferred measure relative to the mean because it is less likely to be positively or negatively skewed by outlying observations.

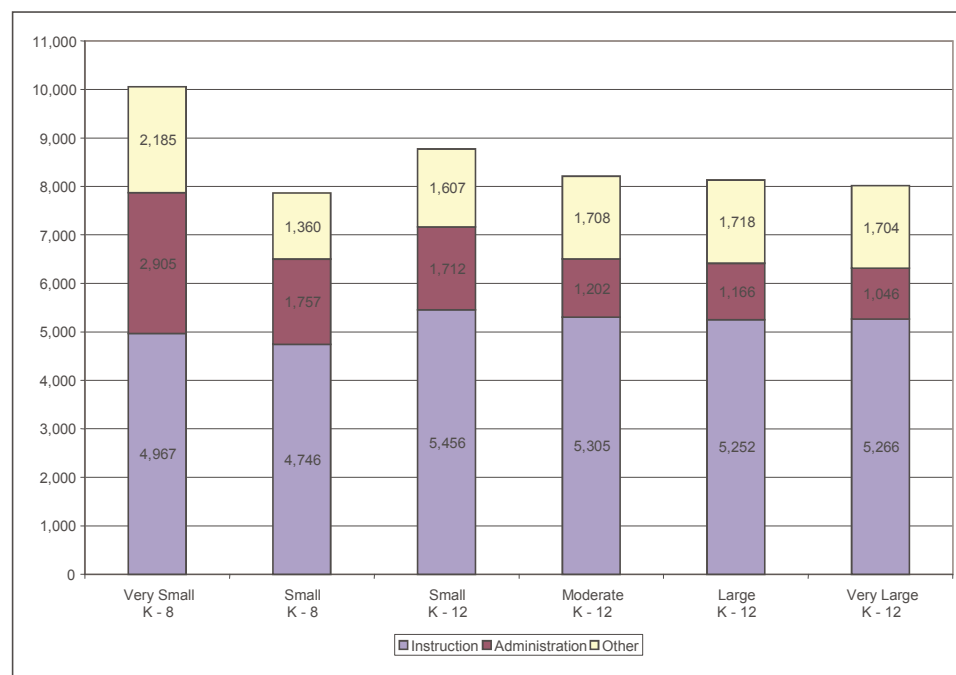
⁹ Total base costs may not equal the sum of total general education cost and district level cost due to rounding.

Section V: Application of PJP Results

The PJP results can be used to determine a base cost and adjustments for special needs students for every district in the state. Generally, APA uses the results of the PJP panels as they are identified by the panelists. In New Jersey, however, the Department felt an adjustment to the results was needed to avoid supporting inefficiencies created by poor economies of scale in very small school districts. These inefficiencies are displayed in Figure 3. Figure 3 apportions the total base cost of the six model school districts into three broader categories: instruction, administration and other.¹⁰ The figure reflects the lack of economies of scale in the smallest hypothetical districts, where approximately one quarter of the total estimated base cost is consumed by administrative expenditures. By comparison, administration accounts for only 15.5 percent of the base cost in the larger K–12 districts.

The Department felt that a core objective of this exercise was to determine not only the cost of meeting the Standards but to do so in an efficient manner. The total base costs of the very small and small K–8 districts were therefore adjusted so that administration equals 15.5 percent of the total base cost (matching the percentage of administrative cost in the larger K–12 districts). This yielded a revised base cost of \$8,460 and \$7,223, respectively. This adjustment was made by the Department and does not follow APA’s general PJP procedures.

Figure 3
Distribution of Costs in Hypothetical School Districts

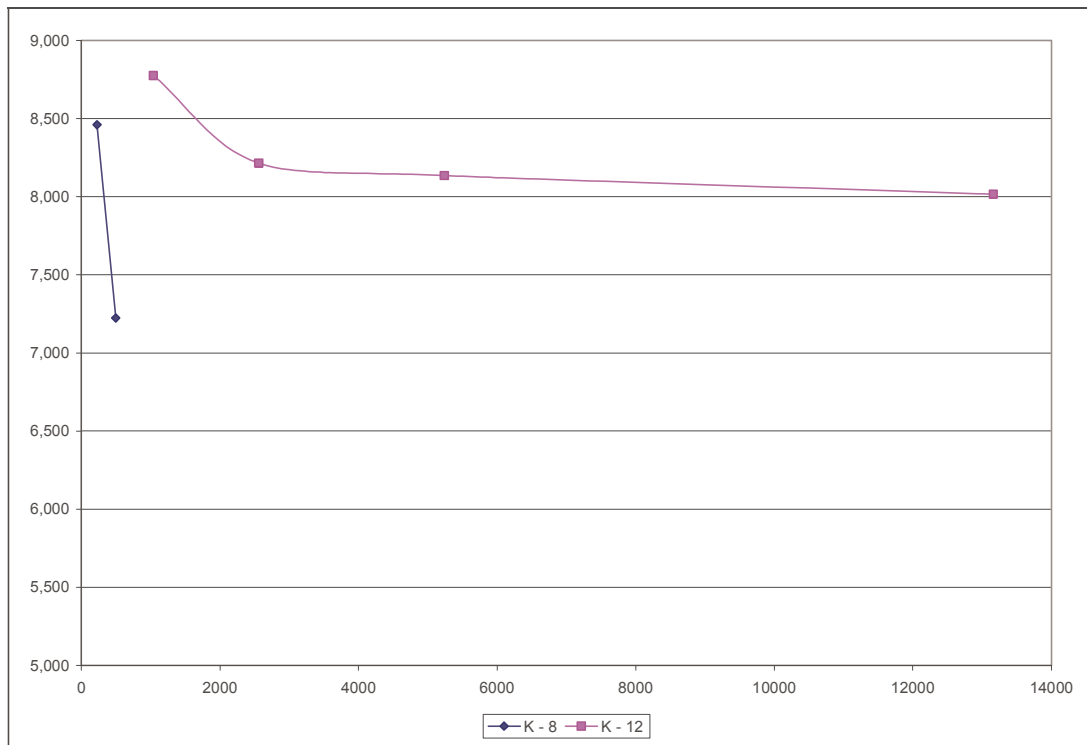


¹⁰ For the purposes of this analysis, instructional and administrative expenditures are defined in a manner consistent with the Uniform Chart of Accounts for New Jersey Public Schools. This document can be found at <http://www.nj.gov/njded/finance/fp/af/coa/coa.pdf>.

Next, a series of formulas was developed to calculate the base per pupil cost for all school districts. It was not possible to simply assign every district one of the six base cost figures. As Figure 4 shows, economies of scale exist that should be accounted for when applying a base cost to a school district. To accommodate these differences, a series of equations were developed to account for the differences in costs based on size of district. The K–8 and K–12 figures are treated separately. The resulting equations were as follows:

- (1) K – 8 districts, less than 500 students: $[(4.581 * (500 - \text{ENR})) + \$7,223]$
- (2) K – 8 districts, 500+ students: $\$7,223 - [0.369 * (\text{ENR} - 500)]$
- (3) K – 12 districts, less than 1,000 students: $[0.369 * (1,000 - \text{ENR})) + \$8,775]$
- (4) K – 12 districts, 1,000 – 2,500 students: $\$8,215 - [0.369 * (\text{ENR} - 1,000)]$
- (5) K – 12 districts, 2,500 – 13,500 students: $\$8,136 - [0.019 * (\text{ENR} - 2,500)]$
- (6) K – 12 districts, more than 13,500 students: $\$8,016$

Figure 4
Base Costs in Hypothetical School Districts,
Including Small District Adjustment



Next, base cost figures were developed for districts with grade configurations not covered by the six hypothetical models included in the PJP analysis. Specifically, there were school districts serving grades K–6, grades 7–12 and grades 9–12 for which base cost figures had to be derived from the results already obtained. Since the panelists identified resources at the school level, it

was possible to isolate the cost associated with specific grade spans and apply the base figures to these districts.

Given the number of grades that overlap between a K–6 school district and the K–8 hypothetical district, the K–8 base cost was applied to the former grade span without any additional adjustment. Data from the moderate, large, and very large K–12 districts were used to identify the base cost in three discrete grade spans (the small K–12 hypothetical could not be used for this purpose because it did not contain separate elementary and middle schools).

Table 6 shows how the data from the three hypothetical districts were used to develop an additional cost weight for districts operating grades 7–12 and 9–12. The total base costs (including school and district-level costs) associated with each grade span were derived from the original PJP results. These results are displayed in the section of Table 6 titled “Base Cost.”

Table 6
Grade Span Base Cost in Moderate, Large and Very Large K through 12 Hypothetical Districts

	Moderate K - 12	Large K - 12	Very Large K - 12	
Base Cost				
K – 5	7,558	7,592	7,399	
6 – 8	8,000	8,034	7,840	
9 – 12	9,420	9,006	9,032	
K – 12	8,215	8,136	8,016	
Derived Base Cost				
7 – 12	8,931	8,671	8,621	
9 – 12	9,420	9,006	9,032	
Ratio to K – 12 Cost				Average
7 – 12	1.09	1.07	1.08	1.08
9 – 12	1.15	1.11	1.13	1.13

The base cost for a school district serving grades 7–12 was determined by calculating the weighted average base cost for the corresponding grades. For example, using the data from the moderate K–12 district, the base cost for students in grades 6–8 and 9–12 are \$8,000 and \$9,420, respectively. The weighted average of these two figures (after accounting for the number of students at each grade level in the hypothetical school district) is \$8,931. This calculation was replicated for the other two hypothetical districts and the results are shown in the section labeled “Derived Base Cost.” The base figure for districts serving grades 9–12 is identical to the cost of educating high school students in the hypothetical K–12 districts.

The ratio of these derived base costs to the K–12 base costs was calculated in each of the three models. The average across these three ratios represents the additional weight to be applied to students enrolled in school districts that only operate the higher grades; the additional weight for students in districts operating grades 7–12 is 0.08 while the high school district weight is 0.13. These weights were multiplied by the base costs derived from equations 3 through 6 above to yield the base costs for these school districts.

Next, a weight was developed to account for the additional cost of students educated in county vocational school districts. In determining an additional weight to account for the higher cost, the objective was to adjust for factors not already considered elsewhere in the cost determination. For example, because of the smaller class sizes required and the more costly supplies and materials needed in vocational schools, additional costs need to be added to the basic expenditure.

Table 7 contains the average per pupil expenditures in county vocational school districts and other districts in the state that serve the high school grades only. Three specific cost areas, general education, administration and maintenance (which account for 72 percent of the total expenditures), were identified as areas in which county vocational districts, by their very nature, were likely to incur higher expenses. The total difference between high school and county vocational school districts' expenditures was divided by the total expenditure in high school districts to provide an additional weight used to determine the base cost figure for county vocational districts. This weight was applied to the equations 3 through 6 in addition to the high school grade span weight discussed previously.

Table 7
Per Pupil Expenditures in County Vocational and High School Districts

	County Vocational Districts	High School Districts	Difference
General Education	4,702	4,518	184
Administration	1,982	1,098	884
Maintenance	2,258	1,309	949
Total of Selected Exp.	8,942	6,925	2,017
Total Exp.	12,498	9,780	
Selected Expenditures as a % of Total HS District Expenditures			20.6%

Table 5 has already shown the base costs derived from the PJP resources as well as the additional costs per pupil associated with special needs students. These additional costs are expressed in weights relative to the base cost figures in Table 8.

To make the data in Table 8 usable in a state funding formula, the results must be studied to determine the appropriate special need student weights to use for all districts. In some states, the results lend themselves to creating different weights based on district size and type. As seen in table 8, the weights for New Jersey's districts are first broken out by type of district (K–8 or K–12).

Table 8
Weight of Special Education, Limited English Proficiency and At-Risk Programs Relative to Base Cost in Hypothetical School Districts

	Very Small K – 8	Small K – 8	Small K – 12	Moderate K – 12	Large K – 12	Very Large K – 12
Special Education						
Speech	0.53	0.40	0.14	0.43	0.37	0.42
Moderate	1.95	1.95	1.31	1.58	1.35	1.43
Severe	8.26	6.53	3.49	4.51	4.11	4.23
Ext. School Year	0.44	0.53	0.41	0.45	0.40	0.43
Prek Disabled	3.04	3.42	2.20	2.76	2.99	3.42
At-Risk						
10%	0.50	0.68	0.49	0.45	0.44	0.46
20%	0.65	0.71	0.49	0.46	0.46	0.47
40%					0.46	0.51
60%						0.37
LEP	1.01	0.60	0.39	0.33	0.34	0.42

The weights for New Jersey’s K–8 and K–12 districts differed enough – for all special need student categories – that they were examined separately. Specifically, we looked to see if there was any variation within the two separate types based on district size. What we found was that district size did not significantly impact the weights. Since this was the case, we took the average of the weights in the K–8 and K–12 school districts; the resulting final weights are shown in Table 9. It should be noted that the weight shown for speech students in the small K–12 district is substantially lower than the corresponding program in other hypothetical districts. To avoid depressing the final weight for K–12 districts, only the results for the three larger K–12 hypotheticals were used to determine the averages.

Table 9
Final Weights for Special Education, Limited English Proficiency and At-Risk Programs

	K – 8 Districts	K – 12 Districts
Special Education		
Speech	0.46	0.41
Moderate	1.95	1.42
Severe	7.39	4.08
Extended School Year	0.48	0.42
Preschool Disabled	3.23	2.84
At-Risk	0.63	0.45
LEP	0.81	0.37

As seen in Table 8, the at-risk weights were not only examined by district type and size, but the concentration of at-risk students was also addressed. The results did not lead us to create a

concentration factor either by district type or size. We again simply took the average of all the weights within a district type to create an at-risk weight. Though all the weights for at-risk were used in creating the K–12 average it would be possible to drop the low figure of .37 and create a higher weight of .47 for the K–12 at-risk weight.

The base cost per pupil and adjustments for special needs students assume that all school districts can hire similarly qualified personnel for the same salary. There are at least two factors beyond a school district's control that may cause this assumption to be inaccurate. First, the cost of living in a certain region can influence salary demands. A potential employee may demand a higher salary to work in a school district in which the surrounding housing market is more expensive. Second, a teacher may also require additional compensation to work in a more challenging environment.¹¹

This concern was addressed by including the Geographic Cost of Education Index (GCEI) developed by Dr. Jay Chambers for the National Center for Education Statistics.¹² The GCEI uses detailed data on local community, school district and individual teacher characteristics to estimate the impact of factors beyond a school district's control to measure the differential salary requirements across districts. The analysis resulted in the development of a cost index for each school district in the country (where the national average of the index equals 1). For implementation purposes, New Jersey school districts were taken from the publicly available data. The GCEI was rescaled such that the average for all New Jersey school districts equals one.

VI: Comparing SSD and PJP Results

Having implemented both the SSD and PJP methodologies, a decision had to be made regarding which set of results (or combination of the results) should be used as the cost basis for meeting New Jersey's education Standards. Table 10 compares the results of the two methods. For these purposes, the PJP figures reflect the median district's base cost after applying the formulas included in equations 1 through 6. There is essentially no cost difference in K–12 districts when the two methods are used. In the case of K–8 districts, the base cost derived from the SSD method is approximately 9 percent higher than that observed from PJP. This difference is likely caused in part by the reduction in administrative expenditures in the smallest districts.

Table 10
SSD and PJP Base Cost Comparison

	SSD	PJP	Difference	% Difference
K – 8	8,004	7,367	637	8.6
K – 12	8,493	8,496	-3	0.0

¹¹ William J. Fowler, Jr. and David H. Monk, A Primer for Making Cost Adjustments in Education, U. S. Department of Education, Office of Educational Research and Improvement, March 2001.

¹² A detailed discussion of the GCEI is beyond the scope of this report. Readers who would like to read more information can access a copy of Chambers' report at <http://nces.ed.gov/pubs98/9804.pdf> (last accessed on November 16, 2006).

For three reasons, it was decided that the PJP results would be used as the basis for defining the cost of education. First, PJP determines the cost of providing both general education services as well as the additional services that are required by students with special needs. Second, the PJP method accounts for the different economies of scale experienced by districts of different sizes. Third, PJP is a more public process that incorporates input from those individuals responsible for educating students to the Standards.

Section VII: Comparing Current and PJP Based Expenditures

After determining the base cost and the additional weights for providing services to students with special needs, districts' enrollment data were utilized to determine districts' budgetary needs based on their specific student population and the corresponding costs. For purposes of this analysis, the budget deemed necessary to provide students with educational opportunities consistent with the Standards is called the **program cost (PC)**. Appendix 11 provides a more detailed description of the data that were utilized to calculate the districts' PC as well as their expenditures on items consistent with the contents of the program cost.

In the aggregate, school districts currently spend an amount consistent with the PC that has been calculated based on the PJP recommendations. Districts spent \$15.6 billion on the programs and services that were included by the panelists. This is 0.9 percent less than the \$15.8 billion total PC for all school districts. As Table 11 shows, New Jersey is unique in this respect. In many states where similar studies have been conducted, there is a more substantial difference between overall current expenditures and the costs identified through the PJP process.

Table 11
Actual Expenditures and Program Costs in Various Professional Judgment Analyses

State / Adequacy Estimate	Actual Expenditure Relative to Adequacy
Kansas ¹³	-8.1%
Maine ¹⁴	-11.0%
Maryland ¹⁵	-48.7%
New Jersey	-0.9%
New York – Method 1 ¹⁶	-17.4%
New York – Method 2	-19.3%
New York – Method 3	-20.5%
New York – Method 4	-24.0%
South Dakota ¹⁷	-37.5%
Wisconsin ¹⁸	-32.8%

¹³ "Calculation of the Cost of a Suitable Education in Kansas in 2000-2001 Using Two Different Analytic Approaches," May 2002.

¹⁴ Equity and Adequacy in Funding to Improve Learning for All Children

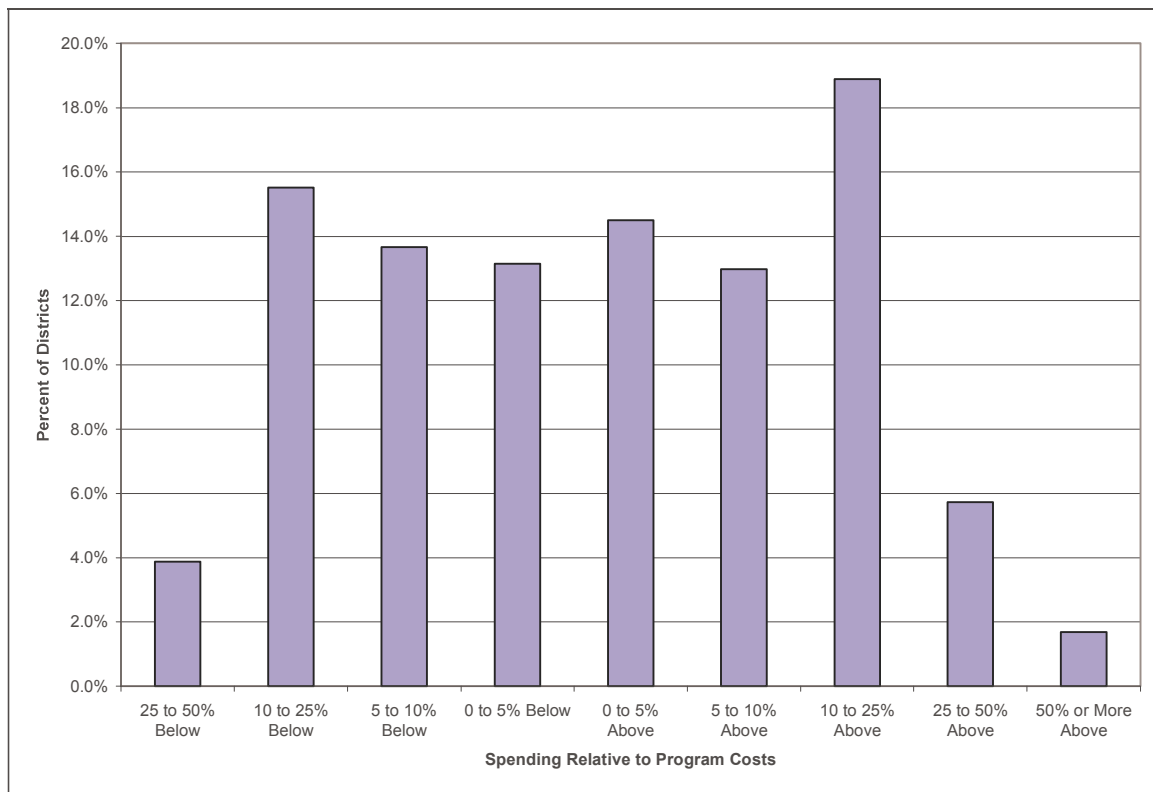
¹⁵ "Calculation of the Cost of an Adequate Education in Maryland in 1999 – 2000 Using Two Different Analytic Approaches," September 2001.

¹⁶ "The New York Adequacy Study: Determining the Cost of Providing All Children in New York and Adequate Education" Volume 2 – Technical Appendices, March 2004

¹⁷ "Estimating the Cost of an Adequate Education in South Dakota," Augenblick, Palaich and Associates, Inc, January 17, 2006, Table V-1B.

As Figure 5 shows, the aggregate figure masks the wide variation observed when one compares individual districts' actual expenditures to PC. Just under half of all school districts (46 percent) have actual expenditures less than PC. More than a quarter of all districts spend within +/- 5 percent of PC while a majority (54 percent) of districts spends within +/- 10 percent.

Figure 5
District Actual Expenditures Relative to Program Cost



Overall, the PC identified through the professional judgment process are perhaps best viewed in terms of identifying an overall level of funds that should be available to purchase personnel, resources, and programs as individual school or district leaders see fit. The advantage of such an approach is that it gives the flexibility to educators to decide how best to meet the specific needs of their students. These are the professionals who: 1) work with children in classrooms on a daily basis; 2) have the experience and training to make the best decisions possible on the types of resources needed for students to meet state standards; and 3) have the greatest understanding of the unique characteristics of their district and student population that might warrant a different way of deploying resources.

¹⁸ "Funding Our Future: An Adequacy Model for Wisconsin School Finance" Institute for Wisconsin's Future, June 2002

Appendix 1
School Districts Included in Successful School Districts Analysis

K through 8 Districts

County	District	Per Pupil Regular Educ. Expend.	DFG
Atlantic	Brigantine City	\$7,871	CD
Atlantic	Estell Manor City	\$8,619	DE
Atlantic	Hamilton Twp	\$5,614	CD
Atlantic	Linwood City	\$7,410	GH
Atlantic	Margate City	\$12,571	DE
Atlantic	Mullica Twp	\$6,764	B
Atlantic	Northfield City	\$6,408	DE
Atlantic	Port Republic City	\$11,411	FG
Atlantic	Weymouth Twp	\$6,836	B
Bergen	Allendale Boro	\$7,822	I
Bergen	Alpine Boro	\$18,382	I
Bergen	Carlstadt Boro	\$12,035	DE
Bergen	Closter Boro	\$7,836	I
Bergen	Demarest Boro	\$8,740	I
Bergen	East Rutherford Boro	\$10,591	CD
Bergen	Englewood Cliffs Boro	\$13,222	I
Bergen	Franklin Lakes Boro	\$9,889	I
Bergen	Harrington Park Boro	\$7,513	I
Bergen	Haworth Boro	\$8,775	I
Bergen	Hillsdale Boro	\$7,889	GH
Bergen	Ho Ho Kus Boro	\$8,795	J
Bergen	Little Ferry Boro	\$6,052	CD
Bergen	Maywood Boro	\$8,176	FG
Bergen	Montvale Boro	\$8,569	I
Bergen	Moonachie Boro	\$12,228	B
Bergen	Northvale Boro	\$7,640	FG
Bergen	Norwood Boro	\$7,587	I
Bergen	Oakland Boro	\$8,801	I
Bergen	Old Tappan Boro	\$7,720	I
Bergen	River Vale Twp	\$8,594	I
Bergen	Rochelle Park Twp	\$10,402	FG
Bergen	South Hackensack Twp	\$9,089	CD
Bergen	Upper Saddle River Boro	\$9,553	J
Bergen	Woodcliff Lake Boro	\$8,629	J
Bergen	Wyckoff Twp	\$7,993	I
Burlington	Eastampton Twp	\$6,284	FG
Burlington	Evesham Twp	\$7,490	I
Burlington	Hainesport Twp	\$7,658	FG
Burlington	Lumberton Twp	\$6,263	FG
Burlington	Medford Lakes Boro	\$7,158	I

County	District	Per Pupil Regular Educ. Expend.	DFG
Burlington	Medford Twp	\$7,534	I
Burlington	Mount Laurel Twp	\$7,364	I
Burlington	Pemberton Borough	\$10,576	CD
Burlington	Riverton	\$9,370	GH
Burlington	Shamong Twp	\$7,695	GH
Burlington	Southampton Twp	\$8,262	DE
Burlington	Tabernacle Twp	\$8,015	GH
Burlington	Washington Twp	\$10,219	A
Burlington	Westampton	\$7,473	GH
Burlington	Woodland Twp	\$11,004	DE
Camden	Bellmawr Boro	\$5,909	B
Camden	Berlin Boro	\$6,191	DE
Camden	Brooklawn Boro	\$7,277	B
Camden	Gloucester Twp	\$6,547	DE
Camden	Merchantville Boro	\$7,360	DE
Camden	Mount Ephraim Boro	\$6,171	CD
Camden	Somerdale Boro	\$6,279	CD
Camden	Stratford Boro	\$6,490	DE
Camden	Voorhees Twp	\$7,831	I
Cape May	Avalon Boro	\$23,679	FG
Cape May	Dennis Twp	\$6,589	CD
Cape May	Sea Isle City	\$17,952	B
Cape May	Stone Harbor Boro	\$16,442	FG
Cape May	Upper Twp	\$7,200	FG
Cape May	Wildwood Crest Boro	\$12,475	B
Cumberland	Greenwich Twp	\$9,309	CD
Cumberland	Stow Creek Twp	\$7,847	CD
Gloucester	Logan Twp	\$8,814	FG
Hunterdon	Alexandria Twp	\$7,505	GH
Hunterdon	Bethlehem Twp	\$8,469	I
Hunterdon	Califon Boro	\$10,528	I
Hunterdon	Clinton Town	\$7,244	I
Hunterdon	Clinton Twp	\$7,182	I
Hunterdon	Delaware Twp	\$8,288	GH
Hunterdon	East Amwell Twp	\$8,340	I
Hunterdon	Flemington-Raritan Reg	\$7,349	I
Hunterdon	Franklin Twp	\$8,312	I
Hunterdon	Frenchtown Boro	\$11,876	FG
Hunterdon	High Bridge Boro	\$8,592	GH
Hunterdon	Holland Twp	\$7,462	FG
Hunterdon	Kingwood Twp	\$6,674	FG
Hunterdon	Lebanon Twp	\$8,510	I
Hunterdon	Milford Boro	\$9,798	FG
Hunterdon	Readington Twp	\$8,097	I
Hunterdon	Tewksbury Twp	\$9,184	J

County	District	Per Pupil Regular Educ. Expend.	DFG
Hunterdon	Union Twp	\$8,377	GH
Middlesex	Cranbury Twp	\$10,550	J
Middlesex	Milltown Boro	\$7,985	FG
Monmouth	Belmar Boro	\$8,193	CD
Monmouth	Brielle Boro	\$7,130	GH
Monmouth	Colts Neck Twp	\$7,894	I
Monmouth	Deal Boro	\$10,957	
Monmouth	Eatontown Boro	\$9,165	FG
Monmouth	Fair Haven Boro	\$7,055	I
Monmouth	Farmingdale Boro	\$11,084	DE
Monmouth	Freehold Twp	\$6,733	GH
Monmouth	Howell Twp	\$7,359	FG
Monmouth	Little Silver Boro	\$8,270	J
Monmouth	Manalapan-Englishtown Reg	\$6,768	GH
Monmouth	Marlboro Twp	\$7,175	I
Monmouth	Millstone Twp	\$6,614	I
Monmouth	Monmouth Beach Boro	\$7,515	I
Monmouth	Neptune City	\$6,663	CD
Monmouth	Oceanport Boro	\$7,166	GH
Monmouth	Rumson Boro	\$7,833	J
Monmouth	Sea Girt Boro	\$11,547	I
Monmouth	Shrewsbury Boro	\$7,467	I
Monmouth	Spring Lake Boro	\$9,928	I
Monmouth	Spring Lake Heights Boro	\$7,833	FG
Monmouth	Tinton Falls	\$7,540	GH
Monmouth	West Long Branch Boro	\$7,171	FG
Morris	Boonton Twp	\$7,911	I
Morris	Chester Twp	\$8,583	J
Morris	Denville Twp	\$6,477	I
Morris	East Hanover Twp	\$8,878	GH
Morris	Florham Park Boro	\$8,410	I
Morris	Hanover Twp	\$8,767	I
Morris	Harding Township	\$11,727	J
Morris	Lincoln Park Boro	\$7,732	FG
Morris	Long Hill Twp	\$7,584	I
Morris	Mendham Boro	\$8,758	J
Morris	Mendham Twp	\$8,742	J
Morris	Morris Plains Boro	\$10,256	I
Morris	Netcong Boro	\$9,108	DE
Morris	Riverdale Boro	\$9,155	FG
Morris	Rockaway Boro	\$7,219	FG
Morris	Rockaway Twp	\$8,872	I
Morris	Washington Twp	\$7,293	I
Ocean	Bay Head Boro	\$12,312	I
Ocean	Lavallette Boro	\$11,265	DE

County	District	Per Pupil Regular Educ. Expend.	DFG
Passaic	Bloomingtondale Boro	\$8,559	FG
Passaic	Little Falls Twp	\$7,404	FG
Passaic	North Haledon Boro	\$6,726	FG
Passaic	Ringwood Boro	\$7,974	GH
Passaic	Totowa Boro	\$8,152	CD
Passaic	West Paterson Boro	\$7,972	DE
Salem	Alloway Twp	\$6,262	DE
Salem	Mannington Twp	\$7,638	CD
Salem	Quinton Twp	\$7,189	A
Somerset	Bedminster Twp	\$10,290	I
Somerset	Branchburg Twp	\$8,710	I
Somerset	Green Brook Twp	\$8,448	GH
Somerset	Warren Twp	\$8,977	I
Somerset	Watchung Boro	\$8,899	I
Sussex	Andover Reg	\$8,227	FG
Sussex	Byram Twp	\$6,501	I
Sussex	Frankford Twp	\$8,419	FG
Sussex	Green Twp	\$7,455	I
Sussex	Hardyston Twp	\$7,756	FG
Sussex	Lafayette Twp	\$7,425	GH
Sussex	Montague Twp	\$8,270	B
Sussex	Stanhope Boro	\$6,970	GH
Sussex	Sussex-Wantage Regional	\$7,310	DE
Union	Garwood Boro	\$8,884	DE
Union	Mountainside Boro	\$8,277	I
Union	Winfield Twp	\$12,985	B
Warren	Alpha Boro	\$8,480	B
Warren	Great Meadows Regional	\$7,595	GH
Warren	Greenwich Twp	\$5,669	I
Warren	Harmony Twp	\$8,572	DE
Warren	Hope Twp	\$9,293	FG
Warren	Lopatcong Twp	\$7,066	DE
Warren	Pohatcong Twp	\$7,965	DE
Warren	White Twp	\$8,649	DE

K through 12 Districts

County	District	Per Pupil Regular Ed. Expend.	DFG
Bergen	Bergenfield Boro	\$7,884	FG
Bergen	Bogota Boro	\$8,565	DE
Bergen	Cresskill Boro	\$8,485	I
Bergen	Dumont Boro	\$8,987	FG
Bergen	Emerson Boro	\$9,072	GH
Bergen	Fair Lawn Boro	\$9,174	GH
Bergen	Fort Lee Boro	\$9,458	FG
Bergen	Glen Rock Boro	\$9,606	J
Bergen	Hasbrouck Heights Boro	\$8,871	FG
Bergen	Leonida Boro	\$8,930	GH
Bergen	Lodi Borough	\$7,932	B
Bergen	Lyndhurst Twp	\$8,757	DE
Bergen	Mahwah Twp	\$9,185	I
Bergen	Midland Park Boro	\$9,040	GH
Bergen	New Milford Boro	\$8,149	FG
Bergen	Paramus Boro	\$9,595	GH
Bergen	Park Ridge Boro	\$9,143	I
Bergen	Ramsey Boro	\$8,825	I
Bergen	Ridgefield Boro	\$5,998	DE
Bergen	Ridgefield Park Twp	\$8,173	DE
Bergen	Ridgewood Village	\$9,041	J
Bergen	Rutherford Boro	\$8,988	GH
Bergen	Saddle Brook Twp	\$7,933	DE
Bergen	Teaneck Twp	\$10,781	GH
Bergen	Tenafly Boro	\$10,267	I
Bergen	Waldwick Boro	\$8,719	GH
Bergen	Westwood Regional	\$8,692	GH
Bergen	Wood Ridge Boro	\$7,855	FG
Burlington	Bordentown Regional	\$8,013	FG
Burlington	Burlington Twp	\$6,640	FG
Burlington	Cinnaminson Twp	\$7,918	FG
Burlington	Delran Twp	\$7,302	FG
Burlington	Florence Twp	\$7,858	DE
Burlington	Maple Shade Twp	\$8,036	CD
Burlington	Moorestown Twp	\$7,924	I
Burlington	Palmyra Boro	\$6,891	DE
Camden	Audubon Boro	\$7,550	DE
Camden	Cherry Hill Twp	\$8,939	GH
Camden	Collingswood Boro	\$9,111	FG
Camden	Haddon Heights Boro	\$8,610	GH
Camden	Haddon Twp	\$8,613	FG
Camden	Haddonfield Boro	\$8,836	J
Cape May	Ocean City	\$12,388	DE

County	District	Per Pupil Regular Ed. Expend.	DFG
Essex	Caldwell-West Caldwell	\$8,682	I
Essex	Cedar Grove Twp	\$9,362	I
Essex	Glen Ridge Boro	\$9,387	I
Essex	Livingston Twp	\$10,158	I
Essex	Millburn Twp	\$9,850	J
Essex	Montclair Town	\$9,075	I
Essex	Nutley Town	\$7,963	FG
Essex	South Orange-Maplewood	\$9,077	I
Essex	Verona Boro	\$7,898	I
Essex	West Orange Town	\$9,733	GH
Gloucester	Monroe Twp	\$6,437	CD
Gloucester	Pitman Boro	\$8,931	FG
Gloucester	Washington Twp	\$7,980	FG
Gloucester	West Deptford Twp	\$7,020	DE
Hudson	Bayonne City	\$6,918	CD
Hudson	Kearny Town	\$8,474	B
Hudson	North Bergen Twp	\$6,545	B
Hudson	Secaucus Town	\$9,956	DE
Mercer	East Windsor Regional	\$8,099	GH
Mercer	Ewing Twp	\$8,026	DE
Mercer	Hamilton Twp	\$6,976	FG
Mercer	Hopewell Valley Regional	\$10,046	I
Mercer	Lawrence Twp	\$8,507	GH
Mercer	Princeton Regional	\$9,510	I
Mercer	Washington Twp	\$7,702	I
Mercer	W Windsor-Plainsboro Reg	\$9,175	J
Middlesex	Dunellen Boro	\$7,452	FG
Middlesex	East Brunswick Twp	\$8,082	I
Middlesex	Edison Twp	\$8,174	GH
Middlesex	Highland Park Boro	\$8,969	GH
Middlesex	Metuchen Boro	\$9,782	I
Middlesex	Middlesex Boro	\$8,110	FG
Middlesex	Monroe Twp	\$8,800	FG
Middlesex	North Brunswick Twp	\$7,957	FG
Middlesex	Old Bridge Twp	\$7,513	FG
Middlesex	Piscataway Twp	\$8,141	GH
Middlesex	Sayreville Boro	\$6,721	DE
Middlesex	South Brunswick Twp	\$8,491	I
Middlesex	South Plainfield Boro	\$8,262	FG
Middlesex	Spotswood Boro	\$8,286	DE
Middlesex	Woodbridge Twp	\$7,249	DE
Monmouth	Hazlet Twp	\$8,582	DE
Monmouth	Holmdel Twp	\$8,689	I
Monmouth	Manasquan Boro	\$8,302	GH
Monmouth	Matawan-Aberdeen Regional	\$9,360	FG

County	District	Per Pupil Regular Ed. Expend.	DFG
Monmouth	Middletown Twp	\$7,890	GH
Monmouth	Ocean Twp	\$8,590	FG
Monmouth	Upper Freehold Regional	\$8,448	GH
Monmouth	Wall Twp	\$8,468	GH
Morris	Boonton Town	\$8,897	FG
Morris	Butler Boro	\$10,063	DE
Morris	Sch Dist Of The Chathams	\$9,331	J
Morris	Jefferson Twp	\$8,337	GH
Morris	Kinnelon Boro	\$8,684	I
Morris	Madison Boro	\$9,546	I
Morris	Montville Twp	\$9,146	I
Morris	Mount Olive Twp	\$8,569	GH
Morris	Mountain Lakes Boro	\$11,198	J
Morris	Parsippany-Troy Hills Twp	\$10,015	GH
Morris	Pequannock Twp	\$8,459	GH
Morris	Randolph Twp	\$8,403	I
Morris	Roxbury Twp	\$8,539	GH
Ocean	Barnegat Twp	\$8,321	CD
Ocean	Brick Twp	\$6,143	DE
Ocean	Jackson Twp	\$6,232	DE
Ocean	Lacey Twp	\$7,535	DE
Ocean	Manchester Twp	\$7,946	B
Ocean	Plumsted Twp	\$6,874	DE
Ocean	Point Pleasant Boro	\$7,044	FG
Ocean	Point Pleasant Beach Boro	\$9,358	FG
Ocean	Toms River Regional	\$7,035	DE
Passaic	Hawthorne Boro	\$8,100	DE
Passaic	Pompton Lakes Boro	\$8,781	FG
Passaic	Wayne Twp	\$8,409	GH
Passaic	West Milford Twp	\$8,218	FG
Salem	Pittsgrove Twp	\$7,673	CD
Salem	Woodstown-Piles Grove Reg	\$7,982	FG
Somerset	Bernards Twp	\$8,150	J
Somerset	Bridgewater-Raritan Reg	\$8,023	I
Somerset	Hillsborough Twp	\$7,571	I
Somerset	Montgomery Twp	\$7,289	J
Somerset	Somerset Hills Regional	\$10,363	I
Somerset	Somerville Boro	\$9,033	FG
Sussex	Hopatcong	\$7,583	FG
Sussex	Newton Town	\$8,601	CD
Sussex	Sparta Twp	\$7,783	I
Sussex	Vernon Twp	\$7,965	FG
Union	Berkeley Heights Twp	\$9,432	I
Union	Clark Twp	\$8,610	FG
Union	Cranford Twp	\$8,307	I

County	District	Per Pupil Regular Ed. Expend.	DFG
Union	Kenilworth Boro	\$9,304	DE
Union	New Providence Boro	\$8,939	I
Union	Roselle Park Boro	\$7,950	DE
Union	Scotch Plains-Fanwood Reg	\$8,857	I
Union	Springfield Twp	\$10,497	GH
Union	Summit City	\$9,781	I
Union	Westfield Town	\$8,493	I
Warren	Hackettstown	\$8,565	DE

Appendix 2

Expenditure Line Items Included in Regular Education Expenditure Calculation

Line Number	Description
2710	Total Regular Programs - Instruction
4890	Total Basic Skills/Remedial - Instruction
5070	Total Vocational Programs – Local – Instruction
6080	Total School Sponsored Cocurricular & Extracurricular Activities – Instruction
6140	Total School Sponsored Athletics - Instruction
6200	Total Other Instructional Programs – Instruction
6260	Total Community Services Programs/Operations
6420	Total Undistributed Expenditures – Attendance & Social Work
6480	Total Undistributed Expenditures – Health Services
6570	Total Undistributed Expenditures – Support Services - Regular
6840	Total Undistributed Expenditures – Improvement of Instructional Services
6900	Total Undistributed Expenditures – Media Services / School Library
7610	Total Undistributed Expenditures – Instructional Staff Training Services
7000	Total Undistributed Expenditures – Support Services – General Administration
7090	Total Undistributed Expenditures – Support Services – School Administration
7625	Total Undistributed Expenditures – Required Maintenance for School Facilities
7636	Total Undistributed Expenditures – Other Oper. & Maint. Of Plant Services
7500	Total Undistributed Expenditures – Other Support Services
20210	Allocated Benefits: Total Regular Programs – Instruction
20430	Allocated Benefits: Total Vocational Programs – Instruction
20540	Allocated Benefits: Total Other Instructional Programs – Instruction
20710	Allocated Benefits: Total Community Services Programs/Operations
20820	Allocated Benefits: Total Attendance and Social Work Services
20930	Allocated Benefits: Total Health Services
21320	Allocated Benefits: Total Other Support Services – Students - Regular
21540	Allocated Benefits: Total Improvement of Instructional Services
21710	Allocated Benefits: Total Educational Media Services / School Library
21820	Allocated Benefits: Total Instructional Staff Training Services
21930	Allocated Benefits: Total Support Services – General Administration
22040	Allocated Benefits: Total Support Services – School Administration
22210	Allocated Benefits: Total Operations and Maintenance of Plant Services
22430	Allocated Benefits: Total Business and Other Support Services
Unallocated Benefits	
7700	Equipment – Preschool/Kindergarten
7710	Equipment – Grades 1 – 5
7720	Equipment – Grades 6 – 8
7730	Equipment – Grades 9 – 12
7731	Equipment – Home Instruction

Line Number	Description
7960	Equipment – Basic Skills/Remedial – Instruction
8070	Equipment – Vocational Programs – Local – Instruction
8080	Equipment – School-Sponsored and Other Instructional Programs
8090	Equipment – Undistributed Expenditures -Instruction
8100	Equipment – Undistributed Expenditures- Support Services – Students – Regular
8110	Equipment – Undistributed Expenditures- Support Services – Students
8130	Equipment – Undistributed Expenditures- Support Services – Instr. Staff
8140	Equipment – Undistributed Expenditures- General Admin.
8150	Equipment – Undistributed Expenditures- School Admin.
8155	Equipment – Undistributed Expenditures- Central Services
8156	Equipment – Undistributed Expenditures- Admin. Information Technology
8160	Equipment – Undistributed Expenditures- Operation of Plant Services
8200	Equipment – Undistributed Expenditures- Other Support Services
8210	Equipment – Undistributed Expenditures- Non-Instructional Services
MINUS	
Multiple Lines	T.P.A.F. Contributions – ERIP
Multiple Lines	Other Retirement Contributions - ERIP
2505	Preschool -Salaries of Teachers
2506	Local Contribution – Transfers to Special Revenue
2511	Local Contribution – Transfers to Special Revenue
6980	Judgments Against the School District
7130	Interest on Current Loans
7135	Interest on Lease Purchase Agreements
7140	Interest in Bond Anticipation Notices
7355	Increase in Sale/Lease-back Reserve
7629	Rental of Land & Building other than Lease Purchase Agreement
7620	Increase in Maintenance Reserve

Appendix 3
School District Demographic Data Submitted to APA

	K – 12 8,000+	K – 12 4,000 – 7,999	K – 12 1,300 – 3,999	K – 12 Less than 1,300	K – 8 350 - 600	K – 8 Less than 350
Number of Districts	31	53	107	27	54	40
Number of Students	419,527	282,511	262,060	28,734	26,071	8,669
Average District Size	13,533	5,330	2,449	1,064	483	217
Average Number of Schools						
Grades K – 5	4.4	2.1	0.9	-	-	-
Grades K – 6	-	-	-	0.4	-	-
Grades K – 8	-	-	-	0.1	0.4	0.7
Grades 6 – 8	1.9	0.8	0.5	-	-	-
Grades 9 – 12	2.0	1.0	0.8	0.5	-	-
Average School Size						
Grades K – 5	372	407	354	-	-	-
Grades K – 6	-	-	-	319	-	-
Grades K – 8	-	-	-	543	341	155
Grades 6 – 8	691	738	525	-	-	-
Grades 9 – 12	1,381	1,225	677	468	-	-
Proportion of Students:						
Free Lunch Eligible	39.7	20.6	13.1	16.6	13.6	12.5
Limited English Proficiency	7.1	4.4	3.2	2.8	1.3	1.2
In County Vocational Dist	1.5	0.9	1.1	1.9	0.6	0.9

	K – 12 8,000+	K – 12 4,000 – 7,999	K – 12 1,300 – 3,999	K – 12 Less than 1,300	K – 8 350 - 600	K – 8 Less than 350
Special Education						
Mild	1.76	2.00	2.37	2.64	3.30	3.97
Moderate	10.99	11.81	11.18	12.53	11.48	12.44
Severe	1.73	1.57	1.67	1.86	1.82	1.51

Appendix 4

Materials Provided to Professional Judgment Panel Participants

BACKGROUND FOR HYPOTHETICAL SCHOOL AND DISTRICT PANELS

The task you are undertaking over the next three days is part of the work Augenblick & Myers, Inc. (A&M) is doing for the New Jersey Department of Education (DOE). DOE is undertaking a variety of studies to support a recommendation for a new state aid formula to be used in 2004-05. The purpose of the studies is to create a rational basis for the parameters that “drive” the allocation of state aid. Two of the studies are designed to estimate the fiscal needs of every school district in the state: (1) one study uses the “professional judgement” approach to estimate a base cost figure, common to all students, and some of the adjustments to that figure that take into consideration the higher costs associated with students with special needs as well as school district grade configuration and enrollment level and (2) another study uses the “successful school district” approach to estimate a base cost figure. For the next few days, you will be participating in activities designed to implement the professional judgement approach.

In order to fulfill the objectives of the professional judgement approach, A&M will be facilitating the work of multiple panels of people whose job is to identify the resources needed by hypothetical schools and school districts so that students will be able to meet a variety of state standards related to elementary and secondary education. You are a member of the first panel, which will be specifying the resource needs of elementary, middle, and high schools of different size in school districts of different size. In February, five different panels (one for each size hypothetical school district) composed of people who work in school districts throughout the state will be reviewing your work. In March, a final panel will review the work of the five panels and provide some advice about the resource prices that should be used in costing out the resources that will have been identified. In the end, DOE will develop, with assistance from A&M, a base cost figure as well as several adjustments in recognition of the higher costs of certain programs, such as special education. These figures will then be used in developing the new state aid system.

The professional judgement approach has been used in other states to estimate the cost of meeting state standards (what is sometimes described as the cost of an adequate education, or adequacy). For example, under court order, Wyoming used the approach to specify the cost of those resources groups of professional educators, like you, thought were necessary to fulfill state education requirements. The approach has also been used in places such as Colorado, Indiana, Kansas, Missouri, Maryland, Montana, Nebraska, New York, Oregon, South Carolina, and Wisconsin to study education costs. In 2002, the Maryland legislature used the recommendations of a state study group that had used the professional judgement approach as the basis for changing the school finance system. While there are many variations of the professional judgement approach, they all are used under the same general assumption: a group

of experienced people can specify the resource needs of hypothetical schools once they know what the schools are expected to accomplish.

It is important to remember that none of the panels that will meet between now and March is charged with designing the best possible schools or school district. The purpose of the exercise is not to build a school that fulfills every fantasy you ever had about what the very best school should look like. Rather, you need to design schools/districts that meets the objectives that the state has identified —and only those objectives. We, and DOE, are relying on your professional judgement about what resources are needed to assure that students, and schools, can meet those objectives, including the kinds of courses that should be offered, the numbers of people that should be employed, the ancillary activities and expenses needed to support those programs and people, and so on.

We will provide you with a lot of additional material about the state's objectives, about the characteristics of hypothetical schools, and about how to report the resources you feel are necessary. You will be given time to discuss the approaches you want to take to organize the hypothetical schools. It is important to remember that this is a collaborative process. We strongly encourage the panel to reach consensus about each of the important decisions you will be asked to make. A team from A&M will be with you over the three days to provide assistance to you – to facilitate the process by answering questions, taking notes, and recording your decisions but not to influence the choices you make.

One thing we need you to think about as you go about your work is how to distinguish the resources needed to educate regular students from those needed to educate students with special needs. Given DOE's objectives, we need to be able to separate the resources you believe are required to serve pupils with special education needs, pupils at risk of failing in school, and students with limited English proficiency (LEP) pupils.

Just so you know A&M is a Denver based consulting firm that works almost exclusively with state level policymakers on issues related to funding education. Today you will be working with John Augenblick, Justin Silverstein, and Jennifer Sharp from A&M.

INSTRUCTIONS TO NEW JERSEY DEPARTMENT OF EDUCATION PROFESSIONAL JUDGEMENT PANEL MEMBERS

Augenblick & Myers, Inc.
Denver, Colorado

January 21-23, 2003
Trenton, New Jersey

1. You are a member of a panel that is being asked to design multiple sets of hypothetical schools –elementary, middle, and high school. This group is also responsible for designing the district level organization that would include several hypothetical schools. The hypothetical schools and school districts are hypothetical –they do not exist and they may never be created. They are a convenient way to identify the resources that schools with a particular set of characteristics should have in order to accomplish a specific set of objectives.

2. This panel will be working today, tomorrow, and Thursday. On the first day we will focus on elementary school districts (K-8) –identifying resources for both schools and the school district in two different size districts. We will also begin identifying school level resources for a small K-12 district. On the second day we will review the work of the first day and then identify the resources for hypothetical schools in a moderately-sized district, a large district, and a very large district. Finally, on Thursday, we will review the work of the previous day and then identify the resources needed at the district level for moderate, large, and very large districts.

3. The characteristics of the hypothetical schools and school districts are shown on a separate page. The characteristics that define the schools include their enrollment, grade span, the proportion of pupils with special education needs, the proportion of pupils with limited English proficiency (LEP), and the proportion of students at risk of failure (as identified by using free lunch eligibility as a proxy).

4. The objectives that need to be accomplished by the hypothetical schools are shown on a separate page. The objectives can be described broadly as either education opportunities/programs/ services or as levels of student performance. These objectives are shown on separate sheet of paper.

5. In designing hypothetical schools or school districts, we need you to provide some very specific information so that a cost of the resources needed to meet the above objectives can be calculated. The fact that we need this information should

not constrain you in anyway in designing the hypotheticals. Your job is to create a set of programs/curriculums designed to serves students with particular needs in such a way that the specified objectives are met. Use your experience and expertise to organize personnel, supplies and materials, and technology in any way you feel confident will produce the desired outcomes.

6. You can make certain assumptions about the hypothetical schools and the environment in which they exist. These assumptions may not characterize the school, or the school district, in which you work and we will devote some time to discussing the assumptions after you have completed your work.

Teachers: You should assume that you can attract and retain qualified personnel and that you can employ people on a part-time basis if needed (based on tenths of a full-time equivalent person).

Facilities: You should assume that the hypothetical school has sufficient space to meet the requirements of the program you design.

Revenues: You should not be concerned about where revenues will come from to pay for the program you design. Don't worry about federal or state requirements that may be associated with some kinds of funding. You should not think about whatever revenues might be available in the school or district in which you work or about any of the revenue constraints that might exist on those revenues.

Timing: You may create new programs or services that do not presently exist that you believe address problems that arise in schools. You should assume that such programs or services are in place and that no additional time is needed for them to produce the results you expect of them.

2. We encourage you to be creative and innovative. There is no single "right" approach to the task. For example:

- You may base your design on a "whole-school approach" (such as Roots and Wings), a charter school approach (such as Edison), or any other philosophical basis (such as Montessori) with which you are familiar.
- You may want to use block scheduling.
- You may want to have a longer or shorter school day or a longer or shorter school year (for some or for all students) than you use currently.

- You may expect some students to obtain some courses using education television, the internet, or through experiences in the community or in post-secondary education.
- You may choose to supplement professional staff with community volunteers.

This summary provides information on New Jersey's Core Curriculum Content Standards and state requirements that potentially impact the cost of providing a thorough and efficient education. Section I outlines the state's standards in the nine content areas. Section II shows the level of success districts are expected to achieve on the statewide assessment exams linked to these standards. Section III highlights the courses and numbers of credits students are required to take in high school in order to receive a diploma. Section IV summarizes state requirements regarding the length of the school day and year.

I: Core Curriculum Content Standards

The Core Curriculum Content Standards (Standards) define what all students must know and be able to do by the end of their public school education. The Standards specify expectations in nine content areas.

Visual and Performing Arts

- | | |
|--------------|--|
| Standard 1.1 | (Aesthetics) All students will utilize and synthesize aesthetic knowledge and skills in response to dance, music, theater, and visual art. |
| Standard 1.2 | (Creation and Performance) All students will utilize those skills, media, methods, and technologies appropriate to each art form in the creation, performance and presentation of dance, music, theater, and visual art. |
| Standard 1.3 | (Elements and Principles) All students will demonstrate an understanding of the elements and principles of dance, music, theater, and visual art. |
| Standard 1.4 | (Critique) All students will apply, develop, and reflect knowledge of the process of critique. |
| Standard 1.5 | (History/Culture) All students will understand and analyze the role, development, and continuing influence of the arts in relation to world cultures, history, and society. |

Comprehensive Health and Physical Education

- | | |
|--------------|---|
| Standard 2.1 | (Health Promotion) All students will achieve optimal wellness by learning and applying health promotion concepts and skills. |
| Standard 2.2 | (Life Skills) All students will achieve optimal wellness by learning and applying personal, interpersonal, and life skills. |
| Standard 2.3 | (Drugs and Medicines) All students will achieve optimal wellness by learning and applying substance abuse prevention concepts and skills. |

- Standard 2.4 (Human Sexuality and Family Life) All students will achieve optimal wellness by learning and applying concepts and skills that support healthy sexuality and positive personal relationships.
- Standard 2.5 (Movement) All students will achieve optimal wellness by learning and applying movement concepts and skills.
- Standard 2.6 (Fitness) All students will achieve optimal wellness by learning and applying fitness concepts and skills.

Language Arts Literacy

- Standard 3.1 (Reading) All students will understand and apply the knowledge of sounds, letters, and words in written English to become independent and fluent readers, and will read a variety of materials and texts with fluency and comprehension.
- Standard 3.2 (Writing) All students will write in clear, concise, organized language that varies in content and form for different audiences and purposes.
- Standard 3.3 (Speaking) All students will speak in clear, concise, organized language that varies in content and form for different audiences and purposes.
- Standard 3.4 (Listening) All students will listen actively to information from a variety of sources in a variety of situations.
- Standard 3.5 (Viewing and Media Literacy) All students will access, view, evaluate, and respond to print, nonprint, and electronic texts and resources.

Mathematics

- Standard 4.1 (Number and Numerical Operations) All students will develop number sense and will perform standard numerical operations and estimations on all types of numbers in a variety of ways.
- Standard 4.2 (Geometry and Measurement) All students will develop spatial sense and the ability to use geometric properties, relationships, and measurement to model, describe and analyze phenomena.
- Standard 4.3 (Patterns and Algebra) All students will represent and analyze relationships among variable quantities and solve problems involving patterns, functions, and algebraic concepts and processes.

- Standard 4.4 (Data Analysis, Probability, and Discrete Mathematics) All students will develop an understanding of the concepts and techniques of data analysis, probability, and discrete mathematics, and will use them to model situations, solve problems, and analyze and draw appropriate inferences from data.
- Standard 4.5 (Mathematical Processes) All students will use mathematical processes of problem solving, communication, connections, reasoning, representations, and technology to solve problems and communicate mathematical ideas.

Science

- Standard 5.1 (Scientific Processes) All students will develop problem-solving, decision-making and inquiry skills, reflected by formulating usable questions and hypotheses, planning experiments, conducting systematic observations, interpreting and analyzing data, drawing conclusions, and communicating results.
- Standard 5.2 (Science and Society) All students will develop an understanding of how people of various cultures have contributed to the advancement of science and technology, and how major discoveries and events have advanced science and technology.
- Standard 5.3 (Mathematical Applications) All students will integrate mathematics as a tool for problem-solving in science, and as a means of expressing and/or modeling scientific theories.
- Standard 5.4 (Nature and Process Of Technology) All students will understand the interrelationships between science and technology and develop a conceptual understanding of the nature and process of technology.
- Standard 5.5 (Characteristics of Life) All students will gain an understanding of the structure, characteristics, and basic needs of organisms and will investigate the diversity of life.
- Standard 5.6 (Chemistry) All students will gain an understanding of the structure and behavior of matter.
- Standard 5.7 (Physics) All students will gain an understanding of natural laws as they apply to motion, forces, and energy transformations.
- Standard 5.8 (Earth Science) All students will gain an understanding of the structure, dynamics, and geophysical systems of the earth.

Standard 5.9 (Astronomy & Space Science) All students will gain an understanding of the origin, evolution, and structure of the universe.

Standard 5.10 (Environmental Studies) All students will develop an understanding of the environment as a system of interdependent components affected by human activity and natural phenomena.

Social Studies

Standard 6.1 (Social Studies Skills) All students will acquire the critical thinking, problem solving and research and social skills and dispositions needed for effective citizenship in a democratic society.

Standard 6.2 (Civics) All students will demonstrate knowledge, understanding, and appreciation of the foundation, values, and principles of American democracy and the rights, responsibilities, and roles of a citizen in a democratic society.

Standard 6.3 (The Humanities) All students will have an enriched and broader understanding of the social studies through the study of the related areas of the humanities (literature, art, philosophy, music and architecture).

Standard 6.4 (World History) All students will demonstrate knowledge and understanding of major events and issues in world history from pre-history to the modern world.

Standard 6.5 (United States History) All students will demonstrate knowledge and understanding of major events, personalities and issues in the history of the United States of America.

Standard 6.6 (New Jersey History) All students will demonstrate knowledge and understanding of major events, personalities and issues in the history of New Jersey.

Standard 6.7 (Economics) All students will acquire an understanding of key economic principles in relation to individuals, institutions, and governments.

Standard 6.8 (Geography) All students will acquire and apply understanding of the spatial contexts of people, places and the environment on earth.

Standard 6.9 (Sociology and Anthropology) All students will demonstrate understanding of societal and cultural structures and functions and how they have contributed and continue to contribute to our everyday experience.

World Languages

- Standard 7.1 (Communication) All students will be able to communicate in at least one world language in addition to English. They will use language to: engage in conversation; understand and interpret spoken and written language; present information, concepts, and ideas while making connections with other disciplines; compare the language/culture studied with their own; and participate in multilingual communities.
- Standard 7.2 (Culture) All students will demonstrate an understanding of the perspectives of a culture(s) through experiences with its products and practices.

Technological Literacy

- Standard 8.1 (Computer Applications) All students will use computer applications to manipulate and communicate information.
- Standard 8.2 (Technology Education) All students will develop an understanding of the nature and impact of technology, engineering, technological design, and the designed world as they relate to the individual, society, and the environment.

Career Education and Life Skills

- Standard 9.1 (Career Awareness) All students will develop career awareness, planning, and employability skills.
- Standard 9.2 (Career/Technical Arts) All students will demonstrate career planning and employability skills, and develop the foundational knowledge and skills necessary for further study in a selected occupational area.
- Standard 9.3 (Critical Thinking) All students will use critical thinking, decision-making and problem solving skills.
- Standard 9.4 (Self-Management) All students will demonstrate interpersonal and self-management skills.

II: Assessment Criteria

The Standards are further delineated by cumulative progress indicators for each benchmark grade level. The statewide assessment system is designed to measure student progress towards achieving the standards. Districts are evaluated based on the percent of students (overall as well as subpopulations) that test at the proficient level or better according to the following schedules.

Grades 3 through 5 Exams

	Language Arts Literacy	Mathematics
2004 – 2005	75	62
2007 – 2008	82	73
2010 – 2011	91	88
2013 – 2014	100	100

Grades 6 through 8 Exams

	Language Arts Literacy	Mathematics
2004 – 2005	66	49
2007 – 2008	76	62
2010 – 2011	87	79
2013 – 2014	100	100

Grades 11 Exam

	Language Arts Literacy	Mathematics
2004 – 2005	79	64
2007 – 2008	85	74
2010 – 2011	92	86
2013 – 2014	100	100

III: Graduation Requirements¹⁹

Completion of at least 110 credits (equivalent of 22 courses)

- At least 20 credits in language arts literacy
- At least 15 credits in mathematics
- At least 15 credits in science
- At least 15 credits in social studies
- At least 3.75 credits per year in health, safety, and physical education (distributed over 150 minutes per week)
- At least 5 credits in visual and performing arts
- At least 5 credits in technological literacy, career education, and life skills
- At least 5 credits in world languages.

IV: Other Requirements

Length of School Year:	180 days
Length of School Day:	Minimum of 4 hours of instructional time (2.5 hours for kindergarten)

¹⁹ In the 2004 – 2005 school year, the first year in which the school funding formula would be effective, the junior and senior classes will be required to have 10 credits in visual, performing, and/or practical arts with no requirement for technological literacy, career education and life skills. These same students will also be required to complete 10 credits in world languages.

Appendix 5

Organizations from which Professional Judgment Panel Nominations Were Requested

Education Law Center
Garden State Coalition of Schools
New Jersey Association of Supervision and Curriculum Development
New Jersey Association of School Administrators
New Jersey Association of School Business Officials
New Jersey Education Association
New Jersey Principals and Supervisors Association
New Jersey School Boards Association
Public Education Institute

Appendix 6
Professional Judgment Panel Invitees – Round 1²⁰

Name	Title	Affiliation
Ms. Eunice Couselo	Director	Office of Special Populations
Dr. Bruce Greenfield	County Superintendent	Ocean County
Ms. Vicky Guo	County Business Administrator	Hudson County
Dr. Michael Klavon	Director	Office of Vocational/Technical, Career and Innovative Programs
Dr. Robert Riehs	Educ. Prog. Development Spec.	Office of Academic and Professional Standards
Dr. Judith Weiss	Assistant Commissioner	Northern Regional Services
Ms. Melinda Zangrillo	Planning Associate	Office of Special Education Programs

²⁰ The listings in Appendices 6 through 8 reflect the individuals who were invited to participate in the professional judgment panels. To ensure open discussion, DOE personnel did not attend and the consultants did not record attendance. As a result, the names listed in this appendix would not account for individuals who were unable to attend without providing notice in advance.

Appendix 7

Professional Judgment Panel Invitees – Round 2

Name	Title	Affiliation
Mr. Steven Block	Director	Education Law Center
Mr. Anthony Campisi	WSR Facilitator	Paterson School District
Mr. Samuel Citron	Principal	Voorhees Middle School (Voorhees Twp Public Schools)
Ms. Gail Cohen	Assistant to the Superintendent	Cherry Hill Public Schools
Mr. Angelo DeSimone	Business Administrator	Hawthorne Public Schools
Ms. Mary Ellen Eck	Superintendent	Riverton Public School
Ms. Annette Edmonds	School Business Administrator	Greenwich Township School District
Mr. Richard Flamini	Supervisor	South Plainfield Board of Education
Ms. Edythe Fulton	President	New Jersey Education Association
Ms. Elizabeth George	School Business Administrator	Mount Arlington Public School
Dr. Bertha Henson	Supervisor of Instruction	Vineland City Board of Education
Ms. Carmen Holster	Principal	Washington Elementary School (Little Ferry Public Schools)
Mr. Richard Horowitz	Principal	J. Fithian Tatem Elementary School (Haddonfield Public Schools)
Ms. Kelly Ippolito	School Business Administrator	Cresskill Public Schools
Mr. Paul Kadri	Superintendent	Moorestown Public Schools
Dr. Carole Kernan	Director of Special Services	Summit Public Schools
Mr. John Knorr	School Board Member	Galloway Township Public Schools
Dr. Richard Konet	Principal	Parsippany High School
Dr. Ted Kozlik	Director of Special Services	Westfield Public Schools
Ms. Suzane Krewson	Teacher	Holland Township School
Dr. Walter Mahler	Superintendent	Springfield Public Schools
Dr. Thomas McMahon	Superintendent	Barneget Township School District
Mr. Robert Murphy	Principal	East Brunswick High School (East Brunswick Public Schools)
Dr. Charles Murray	Superintendent	Mercer Co. Special Services School District
Mr. Joseph Pompeo	Principal	Wallington High School (Wallington Public Schools)
Mr. Robert Reid	Principal	Wildwood Elementary School (Mountain Lakes School District)
Dr. Lester Richens	Superintendent	Belmar Public Schools
Dr. Andrew Rinko	Superintendent	Bedminster Schools
Mr. Lou Ripatrazone	Superintendent	Roxbury Public Schools
Ms. Magda Savino	Principal	Joseph H. Brensinger Elementary School (Jersey City Public Schools)
Mr. Jeff Scott	Asst. Sup. for Business	South Brunswick Public Schools
Mr. David Shaftner	Business Administrator	East Windsor Regional School District
Mr. Richard Sullivan	Assistant Director	New Jersey School Boards Association
Ms. Regina Swierc	Superintendent	Warren Co. Special Services School District
Mr. Jerry Tarnoff	Superintendent	West Orange Public Schools
Mr. Dennis Ventrello	Principal	Brookside Elementary School (Monroe Twp School District)
Dr. Carmina Villa	WSR Facilitator	Long Branch School District
Ms. Barbara Williams	Director	Irvington Board of Education
Mr. Fred Wright	Business Administrator	Eastern Camden County Regional School District
Dr. Debra Zamparelli	Director	Tinton Falls Board of Education

Appendix 8
Professional Judgment Panel Invitees – Round 3

Name	Title	Affiliation
Dr. Pablo Clausell	Superintendent	Perth Amboy Public Schools
Dr. Jacqueline Cusack	Superintendent	Pequannock Township Public Schools
Dr. Len Elovitz	Professor	Kean University, College of Education
Mr. Peter Genovese	School Business Administrator	Long Branch Public Schools
Dr. Patricia Hoey	Superintendent	Harrison Township School District
Mr. Brian O’Leary	School Board Member	South Orange-Maplewood Public Schools
Mr. Bruce Quinn	Superintendent	Matawan-Aberdeen Regional School District
Dr. Morton Sherman	Superintendent	Cherry Hill Public Schools

Appendix 9
Final Professional Judgment Panel Resources

**Appendix 9: Table 1.A
Very Small K – 8 School District
Elementary School Model
General, LEP and Special Education**

	Regular Education	LEP	Spec. Education – Mild	Spec. Education – Moderate	Spec. Education – Severe
Enrollment	225	3	9	28	3
Instructional Staff					
Classroom Teachers	13.0	0.4			1.0
Other Teachers	2.5				
Instructional Aides				2.0	3.0
Substitute Teachers	10 days @ \$100	10 days @ \$100		10 days @ \$100	10 days @ \$100
Resource Teacher				3.0	
Self-Contained Teacher				2.0	
Support Staff					
Librarians / Media Specialists	1.0				
Technology Specialists	1.0				
Counselors	1.0				
Nurses	1.0				
Psychologists			0.1	0.2	0.1
Social Workers			0.1	0.2	0.1
LDTC			0.1	0.2	0.1
Speech Therapist			0.2	0.2	0.2
Occupational Therapist				0.1	0.2
Physical Therapist				0.1	0.2
Administrative Staff					
Principal	0.0				
Assistant Principal	0.5				
Clerical / Data Entry	2.0				
Other Costs					
Professional Development	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel
Supplies & Materials	\$300 / pupil	\$50 / pupil	\$25 / pupil	\$50 / pupil	\$150 / pupil
Equipment	\$50 / pupil				
Technology	\$150 / pupil				
Assessment	\$5,000	\$50 / pupil		\$1,350	\$3,000
State Assessment	\$35 / tested pupil				
Student Activities	\$100 / pupil				
Safety & Security	\$7,500				

Appendix 9: Table 1.B
Very Small K – 8 School District
Elementary School Model
At-Risk Education

	Low At-Risk Concentration	Moderate At-Risk Concentration
Enrollment	23	46
Instructional Staff		
Instructional Aides		2.0
Reading Specialists / Basic Skills	1.0	2.0
Substitute Teachers		10 days @ \$100
Support Staff		
Social Workers		
Parent Liaison		
Other Costs		
Professional Development	\$1,250 / personnel	\$1,250 / personnel
Supplies & Materials	\$50 / pupil	\$50 / pupil

Appendix 9: Table 1.C
Very Small K – 8 School District
Elementary School Model
Other Education Programs

	Gifted & Talented	Special Education – Preschool	Extended School Year	After School Programs	Summer School Programs
Enrollment	15	5	12	½ At-Risk, LEP & Special Ed	½ At-Risk, LEP 18 Special Ed
Instructional Staff					
Classroom Teachers	0.1	1.0	2.0		
Other Teachers					
Instructional Aides		1.0	4.0		
Substitute Teachers	10 days @ \$100	10 days @ \$100	10 days @ \$100		
Support Staff					
Nurses					
Psychologists		0.1			
Social Workers		0.1			
LDTC		0.1			
Speech Therapist		0.1	0.6		
Occupational Therapist		0.05	0.2		
Physical Therapist		0.05	0.2		
Other Costs					
Professional Development		\$1,250 / personnel			
Supplies & Materials	\$50 / pupil	\$200 / pupil	\$50 / pupil		
Equipment		\$50 / pupil			
Assessment		\$25 / pupil			
Other				\$480 / pupil	\$400 / pupil

**Appendix 9: Table 2.A
Small K – 8 School District
Elementary School Model
General, LEP and Special Education**

	Regular Education	LEP	Spec. Education – Mild	Spec. Education – Moderate	Spec. Education – Severe
Enrollment	495	6	17	57	9
Instructional Staff					
Classroom Teachers	27.0	0.4			2.0
Other Teachers	5.5				
Instructional Aides				3.0	5.0
Substitute Teachers	10 days @ \$100	10 days @ \$100		10 days @ \$100	10 days @ \$100
Resource Teacher				5.0	
Self-Contained Teacher				3.5	
Support Staff					
Librarians / Media Specialists	1.0				
Media Aides	1.0				
Technology Specialists	1.0				
Counselors	1.0				
Nurses	1.0				
Psychologists			0.1	0.4	0.3
Social Workers			0.1	0.4	0.3
LDTC			0.1	0.4	0.3
Speech Therapist			0.3	0.5	0.6
Occupational Therapist				0.2	0.3
Physical Therapist				0.2	0.3
Administrative Staff					
Principal	0.0				
Assistant Principal	0.5				
Clerical / Data Entry	2.0				
Other Costs					
Professional Development	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel
Supplies & Materials	\$300 / pupil	\$50 / pupil	\$25 / pupil	\$50 / pupil	\$150 / pupil
Equipment	\$50 / pupil				
Technology	\$150 / pupil			\$2,700	\$9,000
Assessment	\$11,000	\$50 / pupil			
State Assessment	\$35 / tested pupil				
Student Activities K – 5	\$50 / pupil				
Student Activities 6 – 8	\$150 / pupil				
Safety & Security	\$7,500				

Appendix 9: Table 2.B
Small K – 8 School District
Elementary School Model
At-Risk Education

	Low At-Risk Concentration	Moderate At-Risk Concentration
Enrollment	50	99
Instructional Staff		
Instructional Aides	2.0	4.0
Reading Specialists / Basic Skills	2.0	4.0
Substitute Teachers	10 days @ \$100	10 days @ \$100
Support Staff		
Social Workers		
Parent Liaison		
Other Costs		
Professional Development	\$1,250 / personnel	\$1,250 / personnel
Supplies & Materials	\$50 / pupil	\$50 / pupil

Appendix 9: Table 2.C
Small K – 8 School District
Elementary School Model
Other Education Programs

	Gifted & Talented	Special Education – Preschool	Extended School Year	After School Programs	Summer School Programs
Enrollment	33	11	20	½ At-Risk, LEP & Special Ed	½ At-Risk, LEP & 37 Special Ed
Instructional Staff					
Classroom Teachers	0.2	2.0	3.0		
Other Teachers					
Instructional Aides		2.0	6.0		
Substitute Teachers	10 days @ \$100	10 days @ \$100	10 days @ \$100		
Support Staff					
Nurses					
Psychologists		0.2			
Social Workers		0.2			
LDTC		0.2			
Speech Therapist		0.2	1.0		
Occupational Therapist		0.2	0.4		
Physical Therapist		0.2	0.4		
Other Costs					
Professional Development		\$1,250 / personnel			
Supplies & Materials	\$50 / pupil	\$200 / pupil	\$50 / pupil		
Equipment		\$50 / pupil			
Assessment		\$25 / pupil			
Other				\$480 / pupil	\$400 / pupil

**Appendix 9: Table 3.A
Small K – 12 School District
Elementary School Model
General, LEP and Special Education**

	Regular Education	LEP	Spec. Education – Mild	Spec. Education – Moderate	Spec. Education – Severe
Enrollment	720	20	19	90	14
Instructional Staff					
Classroom Teachers	40.0	1.0			2.0
Other Teachers	9.0				
Instructional Aides				3.0	6.0
Substitute Teachers	10 days @ \$100	10 days @ \$100		10 days @ \$100	10 days @ \$100
Resource Teacher				8.0	
Self-Contained Teacher				3.0	
Support Staff					
Librarians / Media Specialists	1.0				
Media Aides	1.0				
Technology Specialists	2.0				
Counselors	2.0				
Nurses	1.0				
Psychologists					
Speech Therapist			0.3	0.7	1.0
Occupational Therapist				0.2	0.6
Physical Therapist				0.2	0.4
Administrative Staff					
Principal	1.0				
Assistant Principal	1.0				
Clerical / Data Entry	2.5				
Other Costs					
Professional Development	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel
Supplies & Materials	\$300 / pupil	\$50 / pupil	\$25 / pupil	\$50 / pupil	\$150 / pupil
Equipment	\$50 / pupil			\$50 / pupil	\$100 / pupil
Technology	\$150 / pupil			\$3,000	\$10,000
Assessment	\$16,000	\$50 / pupil			
State Assessment	\$35 / tested pupil				
Student Activities K - 5	\$50 / pupil				
Student Activities 6 - 8	\$150 / pupil				
Safety & Security	\$7,500				

Appendix 9: Table 3.B
Small K – 12 School District
Elementary School Model
At-Risk Education

	Low At-Risk Concentration	Moderate At-Risk Concentration
Enrollment	72	144
Instructional Staff		
Instructional Aides	3.0	6.0
Reading Specialists / Basic Skills	3.0	6.0
Substitute Teachers	10 days @ \$100	10 days @ \$100
Support Staff		
Social Workers		
Parent Liaison		
Other Costs		
Professional Development	\$1,250 / personnel	\$1,250 / personnel
Supplies & Materials	\$50 / pupil	\$50 / pupil

Appendix 9: Table 3.C
Small K – 12 School District
Elementary School Model
Other Education Programs

	Gifted & Talented	Special Education – Preschool	Extended School Year	After School Programs	Summer School Programs
Enrollment	50	16	24	½ At-Risk, LEP & Special Ed	½ At-Risk, LEP & 40 Special Ed
Instructional Staff					
Classroom Teachers	0.3	2.0	3.0		
Other Teachers					
Instructional Aides		4.0	6.0		
Substitute Teachers	10 days @ \$100	10 days @ \$100	10 days @ \$100		
Support Staff					
Nurses			1.0		
Psychologists					
Social Workers					
LDTC					
Speech Therapist			1.0		
Occupational Therapist			0.5		
Physical Therapist			0.5		
Other Costs					
Professional Development		\$1,250 / personnel			
Supplies & Materials	\$50 / pupil	\$250 / pupil	\$20 / pupil		
Equipment		\$50 / pupil			
Assessment		\$25 / pupil			
Other				\$480 / pupil	\$400 / pupil

Appendix 9: Table 3.D
Small K – 12 School District
High School Model
General, LEP and Special Education

	Regular Education	LEP	Spec. Education – Mild	Spec. Education – Moderate	Spec. Education – Severe
Enrollment	320	9	8	40	6
Instructional Staff					
Classroom Teachers	28.0	0.5			1.0
Other Teachers					2.0
Instructional Aides					
Substitute Teachers	10 days @ \$100	10 days @ \$100		10 days @ \$100	10 days @ \$100
Resource Teacher				4.0	
Self-Contained Teacher				2.0	
Support Staff					
Librarians / Media Specialists	1.0				
Media Aides					
Technology Specialists	1.0				
Counselors	2.0				
Nurses	1.0				
Lunchroom Aides					
Speech Therapist			0.1	0.2	0.2
Occupational Therapist					0.1
Physical Therapist					0.1
Administrative Staff					
Principal	1.0				
Assistant Principal	1.0				
Department Chairs					
Clerical / Data Entry	4.0				
Other Costs					
Professional Development	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel
Supplies & Materials	\$400 / pupil	\$50 / pupil	\$25 / pupil	\$50 / pupil	\$150 / pupil
Equipment	\$75 / pupil				
Technology	\$150 / pupil			\$2,300	\$850
Assessment	\$10,000	\$50 / pupil			
State Assessment	\$35 / tested pupil				
Student Activities	\$600 / pupil				
Security Guard	1.0				
Safety & Security	\$10,000				

Appendix 9: Table 3.E
Small K – 12 School District
High School Model
At-Risk Education

	Low At-Risk Concentration	Moderate At-Risk Concentration
Enrollment	32	64
Instructional Staff		
Classroom Teacher	1.0	1.0
Substitute Teachers	10 days @ \$100	10 days @ \$100
Other Costs		
Professional Development	\$1,250 / personnel	\$1,250 / personnel
Supplies & Materials	\$50 / pupil	\$50 / pupil

Appendix 9: Table 3.F
Small K – 12 School District
High School Model
Other Education Programs

	Extended School Year	After School Programs		Summer School Programs
Enrollment	11	At-Risk Students – Low Concentration	At-Risk Students – Moderate Concentration	½ At-Risk, LEP & 20 Special Ed
Instructional Staff				
Classroom Teachers	2.0			
Instructional Aides	2.0			
Substitute Teachers	10 days @ \$100			
Support Staff				
Nurses				
Speech Therapist	18 hours @ \$75/hour			
Occupational Therapist	18 hours @ \$150/hour			
Physical Therapist	18 hours @ \$150/hour			
Other Costs				
Other		\$9,000	\$18,000	\$360 / pupil

Appendix 9: Table 4.A
Moderate, Large and Very Large K – 12 School District
Elementary School Model
General, LEP and Special Education

	Regular Education	LEP	Spec. Education – Mild	Spec. Education – Moderate	Spec. Education – Severe
Enrollment	400	28	8	45	7
Instructional Staff					
Classroom Teachers	22.0	1.1			2.0
Other Teachers	5.0				
Instructional Aides				2.0	2.0
Substitute Teachers	10 days @ \$100	10 days @ \$100		10 days @ \$100	10 days @ \$100
Resource Teacher				4.0	
Self-Contained Teacher				2.0	
Support Staff					
Librarians / Media Specialists	1.0				
Media Aides	1.0				
Technology Specialists	1.0				
Counselors	1.0				
Nurses	1.0				
Psychologists					
Social Workers					
Parent Liaison					
Lunchroom Aides	0.6				
Speech Therapist			0.1	0.4	0.5
Occupational Therapist				0.1	0.3
Physical Therapist				0.1	0.3
Administrative Staff					
Principal	1.0				
Assistant Principal					
Clerical / Data Entry	2.0				
Other Costs					
Professional Development	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel
Supplies & Materials	\$300 / pupil	\$50 / pupil	\$25 / pupil	\$50 / pupil	\$150 / pupil
Equipment	\$50 / pupil				
Technology	\$150 / pupil			\$1,350	\$9,000
Assessment	\$8,888	\$50 / pupil			
State Assessment	\$35 / tested pupil				
Student Activities	\$50 / pupil				
Safety & Security	\$7,500				

Appendix 9: Table 4.B
Moderate, Large and Very Large K – 12 School District
Elementary School Model
At-Risk Education

	Low At-Risk Concentration	Moderate At-Risk Concentration	High At-Risk Concentration	Very High At-Risk Concentration
Enrollment	40	80	160	240
Instructional Staff				
Instructional Aides	2.0	2.0	2.0	2.0
Reading Specialists / Basic Skills	2.0	4.0	8.0	8.0
Substitute Teachers	10 days @ \$100	10 days @ \$100	10 days @ \$100	10 days @ \$100
Support Staff				
Social Workers			1.0	1.0
Parent Liaison			1.0	1.0
Other Costs				
Professional Development	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel
Supplies & Materials	\$50 / pupil	\$50 / pupil	\$50 / pupil	\$50 / pupil

Appendix 9: Table 4.C
Moderate, Large and Very Large K – 12 School District
Elementary School Model
Other Education Programs

	Gifted & Talented	Special Education – Preschool	Extended School Year	After School Programs	Summer School Programs
Enrollment	28	13	12	½ At-Risk, LEP & Special Ed	½ At-Risk, LEP & 23 Special Ed
Instructional Staff					
Classroom Teachers		2.0	1.5		
Other Teachers	0.2				
Instructional Aides		2.0	3.0		
Substitute Teachers	10 days @ \$100	10 days @ \$100	10 days @ \$100		
Support Staff					
Nurses			1.0		
Psychologists		0.2			
Social Workers		0.2			
LDTC		0.2			
Speech Therapist		0.3	0.3		
Occupational Therapist		0.3	0.3		
Physical Therapist		0.3	0.3		
Other Costs					
Professional Development		\$1,250 / personnel			
Supplies & Materials	\$50 / pupil	\$200 / pupil			
Equipment		\$50 / pupil		\$480 / pupil	\$400 / pupil
Assessment		\$25 / pupil			

Appendix 9: Table 4.D
Moderate, Large and Very Large K – 12 School District
Middle School Model
General, LEP and Special Education

	Regular Education	LEP	Spec. Education – Mild	Spec. Education – Moderate	Spec. Education – Severe
Enrollment	600	43	13	68	10
Instructional Staff					
Classroom Teachers	43.0	2.0			2.0
Other Teachers					
Instructional Aides				2.0	2.0
Substitute Teachers	10 days @ \$100	10 days @ \$100		10 days @ \$100	10 days @ \$100
Resource Teacher				6.0	
Self-Contained Teacher				3.0	
Support Staff					
Librarians / Media Specialists	1.0				
Media Aides	1.0				
Technology Specialists	1.0				
Counselors	2.5				
Nurses	1.0				
Lunchroom Aides	0.5				
Speech Therapist			0.2	0.3	0.3
Occupational Therapist				0.2	0.3
Physical Therapist				0.2	0.3
Administrative Staff					
Principal	1.0				
Assistant Principal	1.0				
Clerical / Data Entry	3.0				
Other Costs					
Professional Development	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel
Supplies & Materials	\$320 / pupil	\$50 / pupil	\$25 / pupil	\$50 / pupil	\$150 / pupil
Equipment	\$50 / pupil				
Technology	\$150 / pupil			\$1,350	\$9,000
Assessment	\$13,332	\$50 / pupil			
State Assessment	\$35 / tested student				
Student Activities	\$150 / pupil				
Security Guard	1.0				
Safety & Security	\$7,500				

Appendix 9: Table 4.E
Moderate, Large and Very Large K – 12 School District
Middle School Model
At-Risk Education

	Low At-Risk Concentration	Moderate At-Risk Concentration	High At-Risk Concentration	Very High At-Risk Concentration
Enrollment	60	120	240	360
Instructional Staff				
Instructional Aides				
Reading Specialists / Basic Skills	1.0	3.0	6.0	6.0
Support Staff				
Social Workers			1.0	1.0
Parent Liaison				
Other Costs				
Professional Development	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel
Supplies & Materials	\$50 / pupil	\$50 / pupil	\$50 / pupil	\$50 / pupil

Appendix 9: Table 4.F
Moderate, Large and Very Large K – 12 School District
Middle School Model
Other Education Programs

	Extended School Year	After School Programs	Summer School Programs
Enrollment	22	½ At-Risk, LEP & Special Education	½ At-Risk, LEP & 23 Special Education
Instructional Staff			
Classroom Teachers	3.0		
Other Teachers			
Instructional Aides	3.0		
Substitute Teachers	10 days @ \$100		
Support Staff			
Nurses	1.0		
Psychologists	0.5		
Social Workers	0.5		
LDTC	0.5		
Speech Therapist	0.4		
Occupational Therapist	0.3		
Physical Therapist	0.3		
Other Costs			
Supplies & Materials			
Other		\$480 / pupil	\$400 / pupil

Appendix 9: Table 5.A
Moderate K – 12 School District
High School Model
General, LEP and Special Education

	Regular Education	LEP	Spec. Education – Mild	Spec. Education – Moderate	Spec. Education – Severe
Enrollment	760	24	18	85	13
Instructional Staff					
Classroom Teachers	60.0	1.0			3.0
Other Teachers					
Instructional Aides				2.0	6.5
Substitute Teachers	10 days @ \$100	10 days @ \$100		10 days @ \$100	10 days @ \$100
Resource Teacher				6.0	
Self-Contained Teacher				2.0	
Support Staff					
Librarians / Media Specialists	1.0				
Media Aides	1.0				
Technology Specialists	1.0				
Counselors	5.0				
Nurses	1.0				
Lunchroom Aides					
Speech Therapist			0.1	0.1	0.4
Occupational Therapist					0.1
Physical Therapist				0.5	0.6
Administrative Staff					
Principal	1.0				
Assistant Principal	1.5				
Department Chairs	2.0				
Clerical / Data Entry	4.0				
Other Costs					
Professional Development	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel
Supplies & Materials	\$400 / pupil	\$50 / pupil	\$25 / pupil	\$50 / pupil	\$150 / pupil
Equipment	\$75 / pupil				\$300 / pupil
Technology	\$150 / pupil			\$4,600	\$1,000
Assessment	\$16,887	\$50 / pupil			
State Assessment	\$35 / tested pupil				
Student Activities	\$575 / pupil				
Security Guard	1.0				
Safety & Security	\$7,500				

Appendix 9: Table 5.B
Moderate K – 12 School District
High School Model
At-Risk Education

	Low At-Risk Concentration	Moderate At-Risk Concentration
Enrollment	76	152
Instructional Staff		
Instructional Aides		
Reading Specialists / Basic Skills	1.0	2.0
Support Staff		
Social Workers		
Parent Liaison		
Other Costs		
Professional Development	\$1,250 / personnel	\$1,250 / personnel
Supplies & Materials	\$50 / pupil	\$50 / pupil

Appendix 9: Table 5.C
Moderate K – 12 School District
High School Model
Other Education Programs

	Extended School Year	After School Programs	Summer School Programs
Enrollment	27	At-Risk Students	½ At-Risk, LEP & 20 Special Education
Instructional Staff			
Classroom Teachers	5.0		
Other Teachers			
Instructional Aides	7.5		
Substitute Teachers	10 days @ \$100 / day		
Support Staff			
Nurses			
Psychologists	0.6		
Social Workers	0.6		
LDTC	0.6		
Speech Therapist	0.5		
Occupational Therapist	0.3		
Physical Therapist	0.3		
Other Costs			
Supplies & Materials			
Other		\$36,000	\$400 / pupil

**Appendix 9: Table 6.A
Large K – 12 School District
High School Model
General, LEP and Special Education**

	Regular Education	LEP	Spec. Education – Mild	Spec. Education – Moderate	Spec. Education – Severe
Enrollment	1,640	72	33	194	26
Instructional Staff					
Classroom Teachers	128.0	3.0			5.0
Other Teachers					
Instructional Aides				3.0	8.0
Substitute Teachers	10 days @ \$100	10 days @ \$100		10 days @ \$100	10 days @ \$100
Resource Teacher				8.0	
Self-Contained Teacher				4.0	
Support Staff					
Librarians / Media Specialists	2.0				
Media Aides	1.0				
Technology Specialists	2.0				
Counselors	9.0				
Nurses	2.0				
Lunchroom Aides					
Speech Therapist			0.3	0.3	0.6
Occupational Therapist				0.5	0.4
Physical Therapist				0.5	0.4
In-School Suspension	1.0				
Administrative Staff					
Principal	1.0				
Assistant Principal	3.0				
Department Chairs	4.0				
Athletic Director	1.0				
Clerical / Data Entry	9.0				
Other Costs					
Professional Development	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel
Supplies & Materials	\$400 / pupil	\$50 / pupil	\$25 / pupil	\$50 / pupil	\$150 / pupil
Equipment	\$75 / pupil				
Technology	\$150 / pupil			\$2,700	\$2,000
Assessment	\$36,441	\$50 / pupil			
State Assessment	\$35 / tested pupil				
Student Activities	\$400 / pupil				
Security Guard	3.0				
Safety & Security	\$15,000				

Appendix 9: Table 6.B
Large K – 12 School District
High School Model
At-Risk Education

	Low At-Risk Concentration	Moderate At-Risk Concentration	High At-Risk Concentration
Enrollment	164	328	656
Instructional Staff			
Instructional Aides			
Reading Specialists / Basic Skills	2.0	4.0	8.0
Substitute Teachers			
Support Staff			
Social Workers			1.0
Parent Liaison			
Other Costs			
Professional Development	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel
Supplies & Materials	\$50 / pupil	\$50 / pupil	\$50 / pupil
Security Guard		1.0	4.0

Appendix 9: Table 6.C
Large K – 12 School District
High School Model
Other Education Programs

	Extended School Year	After School Programs	Summer School Programs
Enrollment	47	At-Risk Students	½ At-Risk, LEP & 87 Special Education
Instructional Staff			
Classroom Teachers	6.0		
Other Teachers			
Instructional Aides	8.0		
Substitute Teachers	10 days @ \$100		
Support Staff			
Nurses			
Psychologists	0.6		
Social Workers	0.6		
LDTC	0.6		
Speech Therapist	0.5		
Occupational Therapist	0.3		
Physical Therapist	0.3		
Other Costs			
Supplies & Materials			
Other		\$24,000	\$400 / pupil

Appendix 9: Table 7.A
Very Large K – 12 School District
High School Model
General, LEP and Special Education

	Regular Education	LEP	Spec. Education – Mild	Spec. Education – Moderate	Spec. Education – Severe
Enrollment	1,387	99	25	153	24
Instructional Staff					
Classroom Teachers	109.0	4.0			5.0
Other Teachers					
Instructional Aides				3.0	7.0
Substitute Teachers	10 days @ \$100	10 days @ \$100		10 days @ \$100	10 days @ \$100
Resource Teacher				7.0	
Self-Contained Teacher				3.0	
Support Staff					
Librarians / Media Specialists	2.0				
Media Aides	1.0				
Technology Specialists	2.0				
Counselors	8.5				
Nurses	2.0				
Lunchroom Aides					
Speech Therapist			0.2	0.2	0.6
Occupational Therapist				0.2	0.4
Physical Therapist				0.2	0.4
Administrative Staff					
Principal	1.0				
Assistant Principal	2.0				
Department Chairs	4.0				
Athletic Director	1.0				
Clerical / Data Entry	8.0				
Other Costs					
Professional Development	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel
Supplies & Materials	\$400 / pupil	\$50 / pupil	\$25 / pupil	\$50 / pupil	\$150 / pupil
Equipment	\$75 / pupil				
Technology	\$150 / pupil				
Assessment	\$30,819	\$50 / pupil		\$4,000	\$2,000
State Assessment	\$35 / tested pupil				
Student Activities	\$400 / pupil				
Security Guard	3.0				
Safety & Security	\$7,500				

Appendix 9: Table 7.B
Very Large K – 12 School District
High School Model
At-Risk Education

	Low At-Risk Concentration	Moderate At-Risk Concentration	High At-Risk Concentration	Very High At-Risk Concentration
Enrollment	139	277	555	832
Instructional Staff				
Instructional Aides				
Reading Specialists / Basic Skills	2.0	3.5	7.0	7.0
Support Staff				
Counselor			1.0	1.0
Social Workers			1.0	1.0
Parent Liaison				
Other Costs				
Professional Development	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel	\$1,250 / personnel
Supplies & Materials	\$50 / pupil	\$50 / pupil	\$50 / pupil	\$50 / pupil
Security Guards			2.0	5.0
School-Based Youth Services / Health Clinic			\$500,000	\$500,000

Appendix 9: Table 7.C
Very Large K – 12 School District
High School Model
Other Education Programs

	Extended School Year	After School Programs	Summer School Programs
Enrollment	41	At-Risk Students	½ At-Risk, LEP & 78 Special Education
Instructional Staff			
Classroom Teachers	6.0		
Other Teachers			
Instructional Aides	7.0		
Substitute Teachers	10 days @ \$100 / day		
Support Staff			
Nurses			
Psychologists	0.6		
Social Workers	0.6		
LDTC	0.6		
Speech Therapist	0.5		
Occupational Therapist	0.2		
Physical Therapist	0.2		
Other Costs			
Supplies & Materials			
Other		\$24,000	\$600 / pupil

Appendix 9: Table 8.A
Very Small K – 8 School District
Districtwide Resources - Personnel

General Education	
Superintendent	1.0
Directors	0.5
Business Administrator	1.0
Clerical / Data Entry	2.0
Custodians	2.0
Maintenance Workers	1.0

Appendix 9: Table 8.B
Very Small K – 8 School District
Districtwide Resources – Other Resources

	General	Special Education
Home Instruction	\$2,700	
Out-of-District Placement		\$50,000
Technology	\$20,000	
Telecommunications	\$40 / pupil	
Textbooks	\$100 / pupil	
Treasurer of School Moneys	\$2,500	
Professional Development		
- Custodial Staff	\$200 / personnel	
- Clerical Staff	\$750 / personnel	
- Professional Staff	\$1,500 / personnel	
Insurance	\$25,000	
Legal	\$12,500	
Activities	\$2,500	
Supplies	\$8 / pupil	
Maintenance Supplies	\$58 / pupil	
Utilities	\$1.34 / sq ft	
Elections	\$4,000	
Association Fees	\$12,500	

Appendix 9: Table 9.A
Small K – 8 School District
Districtwide Resources - Personnel

General Education	
Superintendent	1.0
Supervisors	0.5
Coordinators	1.0
Business Administrator	1.0
Clerical / Data Entry	2.0
Custodians	3.0
Maintenance Workers	3.5

Appendix 9: Table 9.B
Small K – 8 School District
Districtwide Resources – Other Resources

	General	Special Education
Home Instruction	\$5,490	
Out-of-District Placement		\$120,000
Technology	\$20,000	
Telecommunications	\$40 / pupil	
Textbooks	\$100 / pupil	
Treasurer of School Moneys	\$2,500	
Professional Development		
- Custodial Staff	\$200 / personnel	
- Clerical Staff	\$750 / personnel	
- Professional Staff	\$1,500 / personnel	
Insurance	\$35,000	
Legal	\$15,000	
Activities	\$5,000	
School Board	\$10,000	
Supplies	\$8 / pupil	
Maintenance Supplies	\$58 / pupil	
Utilities	\$1.34 / sq ft	
Elections	\$8,000	
Association Fees	\$3,500	

Appendix 9: Table 10.A
Small K – 12 School District
Districtwide Resources - Personnel

	General Education	Special Education
Superintendent	1.0	
Assistant Superintendent	1.0	
Directors		1.0
Supervisor	1.0	
Business Administrator	1.0	
Clerical / Data Entry	5.0	1.0
Psychologist		1.0
Social Worker		1.0
LDTC		1.0
Buildings & Grounds Super.	1.0	
Custodians	8.0	
Maintenance Workers	2.0	

Appendix 9: Table 10.B
Small K – 12 School District
Districtwide Resources – Other Resources

	General	Special Education
Home Instruction	\$12,480	
Out-of-District Placement		\$240,000
Technology	\$25,000	
Telecommunications	\$40 / pupil	
Textbooks	\$100 / pupil	
Professional Development		
- Custodial Staff	\$200 / personnel	
- Clerical Staff	\$750 / personnel	\$750 / personnel
- Professional Staff	\$1,500 / personnel	\$1,500 / personnel
Insurance	\$50,000	
Legal	\$40,000	
Activities	\$10,000	
School Board	\$10,000	
Supplies	\$8 / pupil	
Maintenance Supplies	\$58 / pupil	
Utilities	\$1.34 / sq ft	
Elections	\$15,000	
School Physician	\$5,000	
Association Fees	\$8,000	\$15,000

Appendix 9: Table 11.A
Moderate K – 12 School District
Districtwide Resources - Personnel

	General Education	LEP	Special Education
Superintendent	1.0		
Assistant Superintendent	1.0		
Directors			1.0
Supervisors	1.0	0.5	0.5
Coordinators	2.0		
Business Administrator	1.0		
Facilities Manager	1.0		
Clerical / Data Entry	7.0	0.5	1.5
Psychologist			3.0
Social Worker			3.0
LDTC			3.0
Custodians	18.0		
Maintenance Workers	3.0		
Groundskeepers	3.0		

Appendix 9: Table 11.B
Moderate K – 12 School District
Districtwide Resources – Other Resources

	General	LEP	Special Education
Home Instruction	\$15,000		\$15,000
Out-of-District Placement			\$1,000,000
Security	\$1,000		
Technology	\$50,000		
Telecommunications	\$40 / pupil		
Textbooks	\$100 / pupil		
Professional Development			
- Custodial Staff	\$200 / personnel		
- Clerical Staff	\$750 / personnel	\$750 / personnel	\$750 / personnel
- Professional Staff	\$1,500 / personnel	\$1,500 / personnel	\$1,500 / personnel
Insurance	\$250,000		
Legal	\$50,000		\$10,000
Activities	\$10,000		
School Board	\$15,000		
Supplies	\$8 / pupil		
Maintenance Supplies	\$58 / pupil		
Utilities	\$1.34 / sq ft		
Elections	\$25,000		
School Physician	\$5,000		
Association Fees	\$15,000		
Miscellaneous			\$30,000

Appendix 9: Table 11.C
Moderate K – 12 School District
Districtwide Resources – At Risk Education

	Low At-Risk Concentration	Moderate At-Risk Concentration
Contingency	\$10,000	\$20,000

Appendix 9: Table 12.A
Large K – 12 School District
Districtwide Resources - Personnel

	General Education	LEP	Special Education
Superintendent	1.0		
Assistant Superintendent	2.0		
Directors	4.0		1.0
Supervisor	1.0	0.5	1.0
Coordinators	4.0		
Business Administrator	1.0		
Asst. Bus. Admin.	1.0		
Facilities Manager	1.0		
Business Clerks	4.0		
Clerical / Data Entry	10.0	0.5	2.0
Technician	1.0		
Teachers		2.0	
Counselor			
Psychologist			5.0
Social Worker			5.0
LDTC			5.0
Interpreter / Liaison		0.5	
Custodians	40.0		
Maintenance Workers	4.0		

Appendix 9: Table 12.B
Large K – 12 School District
Districtwide Resources – Other Resources

	General	LEP	Special Education
Home Instruction	\$63,960		
Out-of-District Placement			\$2,075,000
Security	\$15,000		
Technology	\$80,000		
Consultant / Technical Services			\$50,000
Telecommunications	\$40 / pupil		
Textbooks	\$100 / pupil		
Professional Development			
- Custodial Staff	\$200 / personnel		
- Clerical Staff	\$750 / personnel	\$750 / personnel	\$750 / personnel
- Professional Staff	\$1500 / personnel	\$1500 / personnel	\$1500 / personnel
Insurance	\$800,000		
Legal	\$125,000		
Activities	\$20,000		
Supplies	\$8 / pupil		\$20 / pupil
Maintenance Supplies	\$58 / pupil		
Utilities	\$1.34 / sq ft		
Elections	\$35,000		
School Physician	\$25,000		
Association Fees	\$25,000		

Appendix 9: Table 12.C
Large K – 12 School District
Districtwide Resources – At Risk Education

	Low At-Risk Concentration	Moderate At-Risk Concentration	High At-Risk Concentration
In-School Suspension	2.0	4.0	8.0
Guidance Counselor		1.0	1.0
Professional Development	\$1,500 / personnel	\$1,500 / personnel	\$1,500 / personnel

Appendix 9: Table 13.A
Very Large K – 12 School District
Districtwide Resources - Personnel

	General Education	LEP	Special Education
Superintendent	1.0		
Assistant Superintendent	3.0		
Assistants to Superintendent	2.0		
Directors	5.0		1.0
Supervisor	3.0	1.0	5.0
Coordinators	7.0	1.0	
Business Administrator	1.0		
Asst. Bus. Admin.	1.0		
Purchasing Agent	1.0		
Purchasing Clerk	2.0		
Accountant	1.0		
Facilities Manager	2.0		
Business Clerks	7.0		
Clerical / Data Entry	14.0	1.0	6.0
Technician	3.0		
Programmer	1.0		
Teachers		5.0	
Interpreter		1.0	
In-School Suspension			
Psychologist			14.0
Social Worker			14.0
LDTC			14.0
Head Custodians	8.0		
Custodians	75.0		
Maintenance Workers	9.0		
Groundskeepers	15.0		
Security Guard			

Appendix 9: Table 13.B
Very Large K – 12 School District
Districtwide Resources – Other Resources

	General	LEP	Special Education
Home Instruction	\$162,000		
Out-of-District Placement			\$4,700,000
Security	\$25,000		
Technology	\$125,000		\$50,000
Consultant Services			\$150,000
Computer IEP			\$6,000
Telecommunications	\$40 / pupil		
Textbooks	\$100 / pupil		
Professional Development			
- Custodial Staff	\$200 / personnel		
- Clerical Staff	\$750 / personnel	\$750 / personnel	\$750 / personnel
- Professional Staff	\$1,500 / personnel	\$1,500 / personnel	\$1,500 / personnel
Insurance	\$1,750,000		
Legal	\$275,000		
Activities	\$25,000		
School Board	\$15,000		
Supplies	\$8 / pupil	\$5 / pupil	\$20 / pupil
Maintenance Supplies	\$58 / pupil		
Utilities	\$1.34 / sq ft		
Elections	\$50,000		
Audit	\$60,000		
School Physician	\$30,000		
Association Fees	\$50,000		

Appendix 9: Table 13.C
Very Large K – 12 School District
Districtwide Resources – At Risk Education

	Low At-Risk Concentration	Moderate At-Risk Concentration	High At-Risk Concentration	Very High At-Risk Concentration
Director	1.0	1.0	2.0	2.0
Clerical / Data Entry	1.0	1.0	1.0	1.0
Teachers	7.0	7.0	7.0	7.0
In-School Suspension	4.5	4.5	4.5	4.5
Professional Development				
- Clerical Staff	\$750 / personnel	\$750 / personnel	\$750 / personnel	\$750 / personnel
- Professional Staff	\$1,500 / personnel	\$1,500 / personnel	\$1,500 / personnel	\$1,500 / personnel

Appendix 10
Personnel Costs Used in PJP Analysis

	Salary	Benefits	Total Cost	Data Source ^{21,22,23}
School-Level Staff				
<i>Instruction</i>				
Classroom Teacher	\$51,066	\$10,213	\$61,279	Median Salary: Certificated Staff Data 2004 - 2005
Other Teacher	\$51,066	\$10,213	\$61,279	Median Salary: Certificated Staff Data 2004 - 2005
Instructional Aides	\$18,173	\$3,635	\$21,808	Median Salary: NJEA Salary Data 2002 – 2003 (Inflated by 4.8057 percent)
Reading Specialist	\$70,411	\$14,082	\$84,493	Median Salary: Certificated Staff Data 2004 - 2005
Resource Teacher/In-Class	\$51,066	\$10,213	\$61,279	Median Salary: Certificated Staff Data 2004 - 2005
Self-Contained/Pull Out Teacher	\$51,066	\$10,213	\$61,279	Median Salary: Certificated Staff Data 2004 - 2005
Substitute Teacher	\$100 / day	N/A	\$100 / day	PJP Panelists Recommendation
<i>Student Support</i>				
Librarian	\$70,705	\$14,141	\$84,846	Median Salary: Certificated Staff Data 2004 - 2005
Media Aide	\$16,685	\$3,337	\$20,022	Median Salary: NJEA Salary Data 2002 – 2003 (Inflated by 4.8057 percent)
Technology Specialist	\$44,120	\$8,824	\$52,944	Median Salary: Bureau of Labor Statistics (Occupational Code 15-1041: Computer Support Specialist) – Nov. 2004
Guidance Counselor	\$72,902	\$14,580	\$87,482	Median Salary: Certificated Staff Data 2004 - 2005
Nurse	\$53,440	\$10,688	\$64,128	Median Salary: Certificated Staff Data 2004 - 2005
Psychologist	\$66,410	\$13,282	\$79,692	Median Salary: Certificated Staff Data 2004 - 2005
Social Worker	\$56,975	\$11,395	\$68,370	Median Salary: Certificated Staff Data 2004 - 2005
Occupational Therapist	\$56,277	\$11,255	\$67,532	Median Salary: Certificated Staff Data 2004 - 2005
Physical Therapist	\$64,139	\$12,828	\$76,967	Median Salary: Certificated Staff Data 2004 - 2005
Learning Disabled Teacher Consultant	\$75,689	\$15,138	\$90,827	Median Salary: Certificated Staff Data 2004 - 2005

²¹ All salaries taken from the Certificated Staff Data include a 1.5 percent increase recommended by Dr. Augenblick.

²² The 4.8057 percent inflation adjustment is based on the CPI for the interim years (2.11 percent and 2.64 percent).

²³ Bureau of Labor Statistics salary data are taken from the State Occupational Employment and Wage Estimates available at <http://www.bls.gov/oes/current/oesrcst.htm>.

	Salary	Benefits	Total Cost	Data Source ^{21,22,23}
Speech Therapist	\$65,200	\$13,040	\$78,240	Median Salary: Certificated Staff Data 2004 - 2005
Parent Liaison	\$23,216	\$4,643	\$27,859	Median Salary: NJEA Salary Data 2002 – 2003 (Inflated by 4.8057 percent)
Lunchroom Aide	\$10,444	\$2,089	\$12,533	Median Salary: NJEA Salary Data 2002 – 2003 (Inflated by 4.8057 percent)
Security Guard	\$21,610	\$4,322	\$25,932	Median Salary: Bureau of Labor Statistics (Occupational Code 33-9032: Security Guards) – Nov. 2004
Administration				
Principal – Elem.	\$109,217	\$21,843	\$131,060	Median Salary: Certificated Staff Data 2004 - 2005
Asst. Principal – Elem.	\$92,520	\$18,504	\$111,024	Median Salary: Certificated Staff Data 2004 - 2005
Principal – Middle	\$111,619	\$22,324	\$133,943	Median Salary: Certificated Staff Data 2004 - 2005
Asst. Principal – Middle	\$91,991	\$18,398	\$110,389	Median Salary: Certificated Staff Data 2004 - 2005
Principal – High	\$120,906	\$24,181	\$145,087	Median Salary: Certificated Staff Data 2004 - 2005
Asst. Principal – High	\$100,897	\$20,179	\$121,076	Median Salary: Certificated Staff Data 2004 - 2005
Director	\$96,425	\$19,285	\$115,710	Median Salary: Certificated Staff Data 2004 - 2005
Clerical / Data Entry	\$33,680	\$6,736	\$40,416	Median Salary: Bureau of Labor Statistics (Occupational Code 43-6014: Secretaries) – Nov. 2004
District-Level Staff				
Superintendent (Has no Asst. Superintendent)	\$130,200	\$26,040	\$156,240	Median Salary: Certificated Staff Data 2004 - 2005
Superintendent (Has Asst. Superintendent)	\$159,282	\$31,856	\$191,138	Median Salary: Certificated Staff Data 2004 - 2005
Asst. Superintendent	\$133,473	\$26,695	\$160,168	Median Salary: Certificated Staff Data 2004 - 2005
Asst. to the Superintendent	\$44,370	\$8,874	\$53,244	Median Salary: Bureau of Labor Statistics (Occupational Code 43-6011: Executive Secretaries) – Nov. 2004
Director	\$109,772	\$21,954	\$131,726	Median Salary: Certificated Staff Data 2004 - 2005
Supervisor	\$99,220	\$19,844	\$119,064	Median Salary: Certificated Staff Data 2004 - 2005
Coordinator	\$85,656	\$17,131	\$102,787	Median Salary: Certificated Staff Data 2004 - 2005
Business Administrator	\$99,470	\$19,894	\$119,364	Median Salary: Certificated Staff Data 2004 - 2005
Asst. Business Administrator	\$59,682	\$11,936	\$71,618	60% of Business Administrator
Purchasing Agent	\$54,580	\$10,916	\$65,496	Median Salary: Bureau of Labor Statistics (Occupational Code 13-1023: Purchasing Agents) – Nov. 2004

	Salary	Benefits	Total Cost	Data Source ^{21,22,23}
Purchasing Clerk	\$34,100	\$6,820	\$40,920	Median Salary: Bureau of Labor Statistics (Occupational Code 43-3061: Procurement Clerk) – Nov. 2004
Accountant	\$58,940	\$11,788	\$70,728	Median Salary: Bureau of Labor Statistics (Occupational Code 13-2011: Accountants & Auditors) – Nov. 2004
Facilities Manager	\$99,220	\$19,844	\$119,064	
Business Clerk	\$33,830	\$6,766	\$40,416	Median Salary: Bureau of Labor Statistics (Occupational Code 43-3031: Bookkeeping, Accounting and Auditor Clerks) – Nov. 2004
Technician	\$44,120	\$8,824	\$52,944	Median Salary: Bureau of Labor Statistics (Occupational Code 15-1041: Computer Support Specialist) – Nov. 2004
Programmer	\$72,010	\$14,402	\$86,412	Median Salary: Bureau of Labor Statistics (Occupational Code 15-1021: Computer Programmers) – Nov. 2004
Other District-wide Costs				
Head Custodian	\$36,450	\$7,290	\$43,740	Median Salary: Bureau of Labor Statistics (Occupational Code 37-1011: Supervisors, Janitorial Workers) – Nov. 2004
Custodian	\$20,690	\$4,138	\$24,828	Median Salary: Bureau of Labor Statistics (Occupational Code 37-2011: Janitors & Cleaners) – Nov. 2004
Maintenance Worker	\$35,530	\$7,106	\$42,636	Median Salary: Bureau of Labor Statistics (Occupational Code 49-9042: Maintenance & Repair, general) – Nov. 2004
Groundskeeper	\$22,560	\$4,512	\$27,072	Median Salary: Bureau of Labor Statistics (Occupational Code 37-3011: Landscaping and Groundskeeping) – Nov. 2004

Appendix 11
Expenditure Line Items Included in Program Cost Comparison Analysis

Line Number	Description
2710	Total Regular Programs – Instruction
4800	Total Special Education – Instruction
4890	Total Basic Skills/Remedial – Instruction
4980	Total Bilingual Education – Instruction
5070	Total Vocational Programs – Local – Instruction
5350	Total Regular Vocational Programs – Instruction
5630	Total Special Vocational Programs – Instruction
6080	Total School Sponsored Co-curricular Activities – Instruction
6140	Total School Sponsored Athletics – Instruction
6200	Total Other Instructional Programs – Instruction
6260	Total Community Services Programs/Operations
6360	Total Undistributed Expenditures – Instruction (Tuition)
6420	Total Undistributed Expenditures – Attendance & Social Work
6480	Total Undistributed Expenditures – Health Services
6485	Total Undistributed Expenditures – Oth. Support Services – Related Services
6705	Total Undistributed Expenditures – Oth. Support Services – Extraordinary Services
6570	Total Undistributed Expenditures – Support Services – Regular
6680	Total Undistributed Expenditures – Support Services – Special
6840	Total Undistributed Expenditures – Improvement of Instruction Services
6900	Total Undistributed Expenditures – Educ. Media Services/School Library
7610	Total Undistributed Expenditures – Instructional Staff Training Services
7000	Total Undistributed Expenditures – General Administration
7090	Total Undistributed Expenditures – School Administration
7625	Required Maintenance for School Facilities
7636	Other Operations and Maintenance of Plant Services
7500	Business and Other Support Services
7150	Central Services
7185	Admin. Information Technology
20210	Allocated Benefits: Total Regular Programs - Instruction
20320	Allocated Benefits: Total Special Programs - Instruction
20430	Allocated Benefits: Total Vocational Programs - Instruction
20540	Allocated Benefits: Total Other Instructional Programs - Instruction
20710	Allocated Benefits: Total Community Services Programs/Operations
20820	Allocated Benefits: Total Attendance and Social Work Services
20930	Allocated Benefits: Total Health Services
21320	Allocated Benefits: Total Other Support Services – Students –Regular
21430	Allocated Benefits: Total Other Support Services – Students – Special
21540	Allocated Benefits: Total Improvement of Instruction Services
21710	Allocated Benefits: Total Educational Media Services/School Library
21820	Allocated Benefits: Total Instructional Staff Training Services
21930	Allocated Benefits: General Administration
22040	Allocated Benefits: School Administration

Line Number	Description
22210	Allocated Benefits: Operations and Maintenance of Plant
22430	Allocated Benefits: Business and Other Support Services
22710	Unallocated Benefits
22850	Allocated Benefits: Central Services
22950	Allocated Benefits: Admin. Information Technology
8230	Total Equipment
13480	Demonstrably Effective Program Aid – Total Instruction
13640	Demonstrably Effective Program Aid – Total Support Services
13850	Distance Learning Network Aid – Total Support Services
14080	Instructional Supplement Aid – Total Instruction
14240	Instructional Aid – Total Support Services
MINUS	
Multiple Lines	T.P.A.F. Contributions – ERIP
Multiple Lines	Other Retirement Contributions - ERIP
2505	Preschool – Salaries of Teachers
2506	Local Contribution – Transfer to Special Revenue
2511	Local Contribution – Transfer to Special Revenue
2705	Abbott Parity – Set Aside
6980	Judgments Against the School District
7620	Increase in Maintenance Reserve
7629	Rental of Land & Buildings other than Lease-Purchase Agreement
7355	Increase in Sale/Lease-back Reserve
7120	Sale/Lease-back Payment
7130	Interest on Current Loans
7135	Interest on Lease Purchase Agreements
7140	Interest on Bond Anticipation Notes
8180	Equipment: School Buses – Regular
8190	Equipment: School Buses – Special
8220	Equipment: Special Schools (All Programs)
13580	Demonstrably Effective Program Aid: Rentals
13590	Demonstrably Effective Program Aid: Transportation
13800	Distance Learning Network Aid: Rentals
14180	Instructional Supplement Aid: Rentals
14190	Instructional Supplement Aid: Transportation
195	Tuition from Individuals
196	Tuition from Other LEAs Within the State
197	Tuition from Other LEAs Outside the State
198	Tuition from Other Sources

EXHIBIT B



KeyCite Yellow Flag - Negative Treatment

Proposed Legislation

New Jersey Statutes Annotated

Title 40. Municipalities and Counties

Subtitle 3. Municipalities Generally (Refs & Annos)

Chapter 48C. Local Tax Authorization Law (Refs & Annos)

Article 5. Employer Payroll Tax

N.J.S.A. 40:48C-15

40:48C-15. Authorization; rate; approval of reduction in rate

Effective: July 24, 2018

[Currentness](#)

a. Any municipality may by ordinance impose and collect an employer payroll tax for general municipal purposes of the municipality, or for the purposes set forth in subsection d. of this section, at a rate of up to one percent of the employer's payroll.

b. A municipality may by ordinance adjust the rate of an employer payroll tax imposed and collected pursuant to subsection a. of this section, provided that the rate does not exceed one percent. Any reduction in an employer payroll tax while the municipality is in receipt of aid provided through the Transitional Aid to Localities program, or any other discretionary aid program for municipalities in fiscal distress, shall be subject to approval by the Department of Community Affairs.

c. An ordinance adopted pursuant to subsection a. of this section may provide that the employer payroll tax shall not apply to the remuneration paid by employers to employees who are residents of the municipality.

d. (1) If a municipality adopts an ordinance pursuant to subsection a. of this section and the municipality has a median household income of \$55,000 or greater according to the most recent American Community Survey five-year estimate by the United States Census Bureau, all employer payroll tax revenues collected by the municipality pursuant to the ordinance shall be deposited into a trust fund to be used exclusively for school purposes, inclusive of charter schools.

(2) The governing body of the municipality shall monthly pay employer payroll tax revenues deposited in the trust fund over to the board secretary or treasurer of school moneys, as appropriate, of the school district coextensive with the municipality or of which the municipality comprises a part, in an amount equal to one-twelfth of the difference in State school aid provided to that school district, pursuant to [P.L.2007, c. 260 \(C.18A:7F-43 et al.\)](#) and [P.L.2018, c. 67 \(C.18A:7F-67 et al.\)](#), between the current State fiscal year and State fiscal year 2018, for use in lieu of adjustment aid and all other categories of State school aid.

(3) Any balance remaining in the trust fund shall be reserved for use toward making payments pursuant to paragraph (2) of this subsection in the event the employer payroll tax revenues collected in a year are insufficient to pay the full amount provided for under that paragraph.

Credits

L.1970, c. 326, § 15, eff. Dec. 23, 1970. Amended by [L.2017, c. 35, § 1, eff. March 22, 2017](#); [L.2018, c. 68, § 1, eff. July 24, 2018](#).

N. J. S. A. 40:48C-15, NJ ST 40:48C-15

Current with laws through L.2019, c. 60 and J.R. No. 4

End of Document

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EXHIBIT C

City Clerk File No. Ord. 18-133
 Agenda No. 4. F 1st Reading
 Agenda No. 2nd Reading & Final Passage



ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE
 offered and moved adoption of the following ordinance:

CITY ORDINANCE 18-133

TITLE:

ORDINANCE REPEALING AND REPLACING ARTICLE IV OF CHAPTER 304 (TAXATION) OF THE MUNICIPAL CODE (IMPOSING A TAX ON EMPLOYERS' PAYROLL OF NON-JERSEY CITY RESIDENTS FOR THE BENEFIT OF JERSEY CITY SCHOOLS)

THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY HEREBY ORDAINS:

WHEREAS, the City of Jersey City ("the City") will experience a significant decrease in State funding for its public schools over the next five years; and

WHEREAS the City is committed to maintaining the quality of education in its schools and ensuring that every child receives a comprehensive education; and

WHEREAS, the State legislature has authorized municipalities to impose and collect an employer payroll tax pursuant to N.J.S.A. 40:48C-14 et seq; and

WHEREAS the Supreme Court of New Jersey declared the current contents of Article IV of Chapter 304 of the Municipal Code (the "1995 Payroll Tax") void and unenforceable in *Hudson County v. Jersey City*, 153 N.J. 254 (1998).

NOW, THEREFORE, BE IT ORDAINED by the Municipal Council of the City of Jersey City that the 1995 Payroll Tax is hereby revoked and the following shall replace it in its entirety:

ARTICLE IV – 2018 PAYROLL TAX

§ 304-18. DEFINITIONS.

As used in this article, the following terms shall have the meanings indicated:

Audit Notice shall mean a letter issued by the Director to an Employer or supposed Employer requesting information regarding its potential payroll tax liability.

Certificate of Indebtedness shall mean a certificate issued by the Director reflecting an unpaid assessment of payroll taxes by an Employer. A certificate of indebtedness shall reflect the name and address of the Taxpayer, the amount of the debt so certified as being owed and the periods for which such amounts are owed.

Charitable Organization shall mean a nonprofit organization that qualifies for tax exemption under Section 501(c)(3) of the Internal Revenue Code.

City shall mean the City of Jersey City, in the County of Hudson, State of New Jersey.

Director shall mean the Chief Financial Officer of the City, including his or her designee and/or agent.

Employee shall mean any individual in the service of an Employer, under an appointment or contract of hire or apprenticeship, express or implied, oral or written, pursuant to which such Employer controls or has the right to control the manner and performance of the Employee's work. In addition, for purposes of this tax, and irrespective of the common law tests for determining the existence of an independent contractor relationship, an individual performing work or service for compensation shall be deemed to be an Employee of the person for whom the work or service is performed unless: (1) such individual has been and will continue to be free from control or direction over the performance of such work or service under his/her appointment of contract of hire or apprenticeship; (2) such work or service is outside the usual course of the business of the person for which such service is performed; or, (3) such individual is customarily engaged in an independently established trade, occupation, business or profession. A licensed real estate salesperson is deemed an Employee of the broker under whom he or she is licensed.

Employer shall mean any individual, entity, corporation, company, association, society, firm, partnership, limited liability company or partnership, joint stock company, trust, estate, or foundation, whether or not such entity is for profit or nonprofit entity, and regardless of where such entity is formed or operated, standing in the position of Employer in an Employer-Employee relationship, having one (1) or more Employees, and having a Payroll in excess of two thousand five hundred (\$2,500.00) dollars in any calendar quarter; other than

- a. The government of the United States;
- b. The State of New Jersey, or a County, municipality, school district or special district of the State;
- c. An interstate agency;
- d. An agency or instrumentality of any entity enumerated in subsection a, b, or c. above;
- e. Any insurance company formed by authority of another State or foreign country, subject to the provisions of N.J.S.A. 17:32-15.

An entity which contracts with any of the entities identified in subsections a.-e. shall not be exempt from the definition of Employer.

Final Notice shall mean a notice of deficiency, which shall be issued by the Director prior to the commencement of legal proceedings to seek collection.

Internal Revenue Code shall mean the Internal Revenue Code of 1986, as amended.

Interim Notice shall mean a notice of proposed assessment, which offers the Taxpayer a hearing with the Director. The Director may combine an audit notice with an interim notice.

Leased Employee shall mean any person who is not an Employee of the recipient Employer and who provides services to the recipient Employer in the City if (i) such services are provided pursuant to an agreement between the recipient Employer and any other person, and (ii) services are performed under primary direction or control of the recipient.

A leased Employee shall be considered an Employee of the recipient Employer for purposes of this chapter unless the recipient Employer demonstrates to the Director that the leasing, organization is including the Payroll relating to such leased Employee within its payroll tax return. The entire amount paid to the leasing company shall be treated as part of such Employer's Payroll, unless the recipient Employer demonstrates to the Director that a lesser amount should be used.

Payroll shall mean an amount equal to the total remuneration paid by an Employer to Employers which is subject to Federal income tax withholding by the Employer for Federal income tax purposes for services rendered, other than domestic services in a private residence, if:

- a. The services are performed within the City of Jersey City; or
- b. The services are performed outside of the City of Jersey City, but the place from which the services are supervised is in the City of Jersey City.

Such amount shall generally be based on the amount reportable by the Employer on its Federal Form 941 and shall include, but not be limited to, all wages, bonuses, commissions, tips, property, the right to

Schools shall mean all Jersey City public schools.

Services. For the purposes of this chapter, an individual shall be considered in the service of an Employer if (i) he is subject to the authority of the Employer to supervise and direct the manner of rendition of his service, or he is rendering professional or technical services and is integrated into the staff of the Employer, or he is rendering, on the property used in the Employer's operations, other personal services the rendition of which is integrated into the Employer's operations, and (ii) he renders such services for compensation.

Supervision. Services shall be considered to be supervised from the City if an individual who either works in or is based in the City has the right to control and direct the manner of rendition of the Employee's service, has hiring and firing responsibility, and oversees the work of such Employee.

Taxpayer shall mean a person, partnership, association, corporation, or other entity required hereunder to file a payroll tax return, and to pay the payroll tax imposed by this chapter.

Trust Fund shall mean the trust fund established pursuant to paragraph (a) of Section 19.1 of this article.

§ 304-19. TAX IMPOSED.

Except as provided in subsection (a) below, there is hereby imposed on every Employer a tax equal to 1% of the Employers' Payroll, on all Payrolls related to services performed on or after the first day of the first month of the calendar quarter in which this article takes effect; provided, however, that no tax shall be imposed with respect to services performed in any calendar quarter prior to that in which this article was adopted.

- a. An Employer shall incur no payroll tax relative to its Jersey City-resident Employees. In order for an Employer to claim and pay a reduced payroll tax obligation, the Employer must provide the Director, with written evidence and documentation, to the Director's satisfaction, of the relevant Employees' Jersey City residency statuses.
- b. A charitable organization, as defined above, shall calculate the tax that would otherwise be attributable to the City and file a return, but shall only pay the tax on that portion of its Payroll expense attributable to business activity for which a tax may be imposed pursuant to Section 511 of the Internal Revenue Code. If the charity has purchased or is operating branches, affiliates, subsidiaries or other business entities that do not independently meet the standards of a charity, the tax shall be paid on the Payroll attributable to such for profit branches, affiliates or subsidiaries, whether or not the Employees are leased or placed under the auspices of the charity's umbrella or parent organization.

§ 304-19.1. TRUST FUND AND DISTRIBUTION OF PAYROLL TAX PROCEEDS.

- a. The Director shall create a trust fund to be used exclusively for School purposes.
- b. All revenue collected by the City pursuant to Section 19 of this article shall be deposited into the Trust Fund.
- c. The City Business Administrator , including his or her designee and/or agent, shall monthly pay Employer payroll tax revenues deposited in the Trust Fund over to the treasurer of school moneys of the school district coextensive with the municipality or of which the municipality comprises a part in an amount equal to one-twelfth (1/12) of the difference in State school aid provided to that school district, pursuant to N.J.S.A. 18A:7F-43 et al. and N.J.S.A. 18A:7F-67 et al., between the current State fiscal year and State fiscal year 2018.
- d. All tax revenue distributed under this section shall be used in lieu of State adjustment aid and all other categories of State School aid.
- e. Any monthly balance remaining in the Trust Fund shall be reserved for use toward making future payments pursuant to paragraph (c) of this section.
- f. In the event that, when a monthly Trust Fund payment becomes due, the balance of the Trust Fund is insufficient to make a payment pursuant to paragraph (c) of this section, the City Business Administrator shall pay the remaining balance of the Trust Fund over to the treasurer of school moneys of the school district coextensive with the municipality or of which the municipality comprises a part for that month only.

§ 304-19.2. ADMINISTRATION AND ENFORCEMENT.

- a. *Powers and Duties of Director.*
 - 1. The Director is charged with the administration and enforcement of the provisions of this chapter, and is empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this chapter, including provisions for the reexamination and corrections of

declarations and returns, and of payment alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to prescribe forms necessary for the administration of this chapter. Should an Employer fail or refuse to provide adequate information to the Director to determine the amount of payroll tax due, the Director may use prior year information of the Employer and/or information provided to the Director from other sources (i.e., the New Jersey Departments of Labor and/or Revenue) to determine the amount of payroll tax liability.

2. It shall be the duty of the Director to collect and receive the taxes, fines, and penalties imposed by this chapter. It shall also be the duty of the Director to keep a record showing the date of such receipt.
 3. The Director is authorized to enter into agreements with the State of New Jersey Department of Labor and/or Department of Revenue to obtain information regarding Employers, their Employees and their Payroll to facilitate administration of the payroll tax.
 4. The Director is authorized to issue a ruling upon written request of a Taxpayer or upon its own volition.
- b. *Examination of Books and Records of Taxpayers and Employers.*
1. The Director is hereby authorized to examine the books, papers and records of any Employer or supposed Employer, or of any Taxpayer or supposed Taxpayer, in order to verify the accuracy of any declaration or return, or if no declaration or return was filed, to ascertain the tax due. Every Employer or supposed Employer, and every Taxpayer or supposed Taxpayer, is hereby directed and required to give to the Director, or to any agent designated by him/her, the means, facilities and opportunity for such examinations and investigations, as are hereby authorized.
 2. If records are not available in the City to support the returns which were filed or which should have been filed, the Taxpayer will be required to make them available to the Director either by producing them in a City location or by paying for the expenses incurred by the Director or his agent in traveling to the place where the records are regularly kept.
- c. *Records to Be Kept for the Employer.* Taxpayers and Employers liable for the payroll tax are required to keep such records as will enable the filing of true and accurate returns or the tax and such records shall be preserved for a period of not less than seven (7) years from the filing date or due date, whichever is later, in order to enable the Director or any agent designated by him to verify the correctness of the declarations or returns filed.
- d. *Audits.*
1. The Director shall initiate an audit by means of an audit notice. If, as a result of an examination conducted by the Director, a return has not been filed by an Employer or a return is found to be incorrect and payroll taxes are owed, the Director is authorized to assess and collect any payroll tax due. If no return has been filed and tax is found to be due, the tax actually due may be assessed and collected with or without the formality of obtaining a return from the Taxpayer. Deficiency assessments (i.e., where

a Taxpayer has filed a return but is found to owe additional tax) shall include taxes for up to three (3) years to the date when the deficiency is assessed. Where no return was filed, there shall be no limit to the period of assessment.

2. Upon proposing an assessment, the Director shall send the Employer an interim notice by certified mail, return receipt requested, which advises the Taxpayer of additional payroll taxes that are due, along with penalties and interests. Should the Taxpayer wish to dispute the assessment administratively by requesting a hearing with the Director, it must do so within thirty (30) days of the date of such interim notice.
3. If, after the Director sends an interim notice, a Taxpayer fails to timely request a hearing with the Director or requests a hearing and after conducting a hearing, the Director determines that payroll taxes are due, the Director shall send the Employer by certified mail, return receipt requested, a final notice. Should the Taxpayer wish to dispute the assessment, he or she must do so in the manner described in Section 19.5 of this chapter.

§ 304-19.3. RETURN REQUIREMENT; REGISTRATION.

- a. *Filing a Return; Payment of Tax.* All Employers are required to file a payroll tax return with the Director to report their Payroll during each calendar quarter and the amount of payroll tax in accordance with the provisions of this chapter. Returns shall be filed and payments of payroll tax imposed for the preceding calendar quarter shall be made on or before the last day of April, July, October, and January, respectively. An Employer who conducts business in the City on a temporary, seasonal or itinerant basis shall file a return and pay the tax within ten (10) days of the completion of the temporary, seasonal, or itinerant business, but not less frequently than quarterly. Should the amount reflected on an Employer's Federal Form 941 be revised or amended at any time after the payroll tax return for such period has been filed (by the Employer or by the Internal Revenue Service), the Employer is required to amend its payroll tax return to be consistent therewith within three (3) months of the date of such revision or amendment.
- b. *Registration.* Every Employer must be registered with the City in accordance with any Jersey City Business Registration Ordinance and any existing business registration law. Should an Employer cease doing business in the City or having Payroll subject to the payroll tax, it shall notify the Director within three (3) months of such date.
- c. *Prohibition Against Deduction or Withholding.* No Employer shall deduct or withhold any amount from the remuneration payable to an Employee because of the tax imposed by this chapter.

§ 304-19.4. SUITS FOR TAX COLLECTIONS, VIOLATIONS, FINES, INTEREST AND PENALTIES.

- a. *Remedies Not Mutually Exclusive.* The remedies provided in this section are not mutually exclusive. The utilization by the Director of one remedy does not preclude utilization of the other. Moreover, any use of the remedies provided in these sections does not

preclude the use by the City of any other legal or administrative procedure which can bring about compliance by the Taxpayer with the provisions of this chapter.

- b. *Suits for Recovery of Unpaid Taxes.* The Director may sue in the name of the City in law or in equity, for the recovery of those payroll taxes due and unpaid under the provisions of the payroll tax, to compel the production of records or to enforce any other provisions of the law.

c. *Limitations.*

1. The following periods of limitations shall apply to suits for collection of payroll taxes:
 - i. When a return has been filed but no tax paid, any suit brought to recover the tax due and unpaid shall be filed within three (3) years after the return was due or filed, whichever is later. Where no return was filed or a fraudulent return was filed, there shall be no limits to file suit for the collection of taxes.
 - ii. A return filed before the due date is deemed to be filed on the due date.
 - iii. Extension by Agreement. Where, before the expiration of the time prescribed in this section for the filing a lawsuit against the Taxpayer, both the Director and the Taxpayer have consented in writing to its extension after such time, the suit may be filed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

d. *Penalty and Interest.*

1. If for any reason the payroll tax is not paid when due, interest at the rate of twelve (12%) percent per annum on the amount of tax and a penalty of one-half (1/2%) percent per month for each month or fraction of a whole month during the period in which the tax remains unpaid shall be added to the tax.
2. On any additional tax determined to be due as a result of a deficiency assessment, penalty and interest will be assessed from the date the tax should have been paid to the date of payment. Penalty and interest is calculated as described above in the applicable portion of subsection 1.
3. Where suit is brought for the recovery of such tax, the person liable therefore shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed. Once due and owing, penalty and interest become part of the tax and shall be collected as such. A person's belief that no tax is due and owing, or the failure of any person to receive or obtain the forms required for making the returns required under this chapter is not a valid defense to the imposition of penalties herein for violation. Good faith shall not be a defense to the imposition of penalty.

e. *Fines and Penalties for Violations.*

1. Violations. No person shall:
 - i. Fail, neglect or refuse to make any return or provide any reports required by this chapter.

- ii. Refuse to permit an officer or agent designated by the Director to examine the books, records, papers or accounts of any business taxable or otherwise to determine liability.
 - iii. Knowingly make any incomplete, false or fraudulent report or attempt to do anything whatever to avoid full disclosure of the amount of payroll tax due to avoid the payment in whole or in part of the payroll tax.
- 2. In addition to any other penalties or enforcement proceedings provided for the collection and enforcement of payroll taxes by applicable law, any person who commits a violation of this chapter shall, upon conviction, be subject to a fine of not less than one hundred (\$100.00) dollars and not exceeding two thousand (\$2,000.00) dollars, imprisonment for a term not exceeding ninety (90) days and/or a period of community service not exceeding ninety (90) days. Any person who is convicted of violating this chapter within one (1) year of the date of a previous violation of this chapter and who was fined for such previous violation, shall be sentenced to an additional fine as a repeat offender, which fine shall not be less than the minimum and not more than the maximum fine fixed for a violation of this chapter.
- 3. The fines and terms of imprisonment imposed under this section shall be in addition to any other relief granted to the City of a monetary nature under the provisions of this chapter.
- f. *Certificate of Indebtedness.* Upon making an assessment of payroll tax or additional payroll tax, the Director may issue a certificate of indebtedness, which shall be filed with the Clerk of the Superior Court to record as a judgment against the Employer.

§ 304-19.5. TAXPAYER REMEDIES.

- a. *Director Hearings.*
 - 1. Any person who receives an interim notice from the Director may within thirty (30) days after the date of an interim notice, request a hearing with the Director.
 - 2. Any person who fails to request a Director's hearing within a timely manner waives the right to administratively contest any element of the assessment.
- b. *Payment Under Protest.* The Director will accept payments of disputed tax amounts under protest pending appeals; however, any request for refund of such monies must be filed in accordance with subsection d of this section.
- c. *Refunds.*
 - 1. A Taxpayer who has overpaid the payroll tax, or who believes he is not liable for the payroll tax may file a written request on an amended tax return with the Director for a refund or a credit of the tax. A request for refund or a credit shall be made within three (3) years of the due date for filing the report or one (1) year after actual payment of the tax, whichever is later. If no report is required, the request shall be made within three (3) years after due date for payment of the tax or within one (1) year after actual payment of the tax, whichever is later.

2. For amounts paid as a result of a notice asserting or informing a Taxpayer of an underpayment, a written request for a refund shall be filed with the Director within one (1) year of the date of the payment.
3. Erroneous Refund Recovery. The Director may sue for recovery of an erroneous refund provided such suit is begun two (2) years after making such refund, except that the suit may be brought at any time if any part of the refund was induced by fraud or misrepresentation of material fact. Notwithstanding the foregoing, the Director may file a law suit within the limitations period under Section 19.4(c) of this chapter, if such period ends after the two (2) year period specified in the preceding sentence.
- d. *Appeals.* Any aggrieved Employer may, within ninety (90) days after the mailing of any final notice regarding a decision, order, finding assessment or action of the Director, appeal to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq. by filing a petition of appeal and upon payment of the amount stated by the Director to be due. The appeal provided by this section shall be the exclusive remedy available to any Employer for review of a final decision of the Director in respect to a determination of liability for the tax imposed by this chapter. If no such appeal is filed on a timely basis, the aggrieved party waives his right to contest any element of the Director's adjudication, and that party's failure to challenge the same will be construed as an admission by that party as to the propriety of the Director's decision. No hearing or appeal will operate to suspend the accrual of penalty and interest from the date the tax was due to the date it is actually paid.

§ 304-20. INFORMATION CONFIDENTIAL.

Any information contained in an Employer's report or received by the City of Jersey City or any of its officers or Employees as a result of any investigation, hearing or verification of a report shall not be disclosed except for official purposes, and shall not be disclosed except in accordance with an order of a court or as otherwise provided by law.

§ 304-21. PROHIBITION AGAINST DEDUCTION OR WITHHOLDING.

No Employer shall deduct or withhold any amount from the remuneration payable to an Employee because of the tax imposed by this article.

§ 304-22. LIABILITY OF EMPLOYER TO ONLY ONE MUNICIPALITY.

No employer shall be obligated to report and pay an employer payroll tax, or any interest, penalty or costs with respect thereto, to more than one municipality with respect to remuneration paid to an employee for services performed. Where any dispute as to the liability for an employer payroll tax to more than one municipality for services performed by an employee is not resolved by agreement between the employer and the municipalities, all of said municipalities shall be joined in a proceeding in the tax court to collect the tax alleged to be due.

- Continuation of City Ordinance 18-133, page 10

§ 304-23. EFFECTIVE DATE AND SUNSET PROVISION.

- a. This ordinance shall take effect on January 1, 2019.
- b. This ordinance shall remain in effect only until December 31, 2020 unless an extension or re-authorization is approved by the Municipal Council of the City of Jersey City

§ 304-24. DIVISION OF LOCAL FINANCE.

The City Clerk shall file a copy of this article with the Director of the Division of Local Finance in the New Jersey Department of Community Affairs. He shall likewise file any amendments to this article, including any regulations promulgated in accordance with Section 19.2 of this article.

- A. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
- B. This ordinance shall be a part of the Jersey City Code as though codified and set forth fully herein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Jersey City Code.
- C. The City Clerk and the Corporation Counsel be and are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of this ordinance reveals that there is a conflict between those numbers and the existing code, in order to avoid confusion and possible repeaters of existing provisions.

HB/mma
11/01/2018

APPROVED AS TO LEGAL FORM

APPROVED: _____

Corporation Counsel

APPROVED: _____
Business Administrator

Certification Required ☐

Not Required ☐

ORDINANCE FACT SHEET

This summary sheet is to be attached to the front of any ordinance that is submitted for Council consideration. Incomplete or vague fact sheets will be returned with the ordinance.

Full Title of Ordinance/Resolution

ORDINANCE REPEALING AND REPLACING ARTICLE IV OF CHAPTER 304 (TAXATION) OF THE MUNICIPAL CODE (IMPOSING A TAX ON EMPLOYERS' PAYROLL OF NON-JERSEY CITY RESIDENTS FOR THE BENEFIT OF JERSEY CITY SCHOOLS)

Initiator


Department/Division	Business Administration	
Name/Title	Brian Platt	Business Administrator
Phone/email	BPlatt@jenj.org	201- 547-5147

Note: Initiator must be available by phone during agenda meeting (Wednesday prior to council meeting @ 4:00 p.m.)

Ordinance Purpose

The purpose of this ordinance is to establish a payroll tax on the payrolls of non-Jersey City residents for the benefit of the Jersey City schools.

I certify that all the facts presented herein are accurate.



Signature of Department Director



Date

JERSEY CITY BOARD OF EDUCATION
and E.H., a minor, by his guardian ad
litem, SHANNA C. GIVENS,

Plaintiffs,

v.

STATE OF NEW JERSEY, NEW
JERSEY DEPARTMENT OF
EDUCATION, DR. LAMONT
REPOLLET, in his official capacity as
Commissioner of Education, NEW
JERSEY OFFICE OF MANAGEMENT
AND BUDGET, NEW JERSEY
DEPARTMENT OF TREASURY,
ELIZABETH MAHER MUOIO, in her
official capacity as New Jersey State
Treasurer,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: HUDSON COUNTY

DOCKET NO.: HUD-L-

CIVIL ACTION

**PLAINTIFFS' BRIEF IN SUPPORT OF ORDER TO SHOW CAUSE
SEEKING PRELIMINARY INJUNCTIVE RELIEF**

GENOVA BURNS LLC

494 Broad Street
Newark, New Jersey 07102
(973) 533-0777

*Attorneys for Plaintiffs,
Jersey City Board of Education and
E.H., a minor, by his guardian ad litem,
Shanna C. Givens*

Of Counsel and on the Brief

Angelo J. Genova, Esq.
Jennifer Borek, Esq.

On the Brief

Matthew S. Oorbeek, Esq.
Paul L. Tractenberg, Esq. (Attorney at Law)

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PRELIMINARY STATEMENT

A growing body of evidence demonstrates that when states invest in their public schools and create more equitable school financing systems, student achievement levels rise. Yet for over forty years, the State of New Jersey - which is constitutionally mandated to provide a “thorough and efficient education” to all of its students - has failed its public-school students in poorer urban districts with the lack of any comprehensive school funding scheme that would provide them with the necessary tools to succeed in school and beyond. These failures have resulted in a series of decisions and orders, first in Robinson v. Cahill then in Abbott v. Burke, which struck down school funding statutes that violated the State's constitutional duty to provide a thorough and efficient education to all students. The Abbott rulings established standards for the right to education for New Jersey public school children, and in 2009, the Abbott Court facially approved a statewide weighted student funding formula, implemented by the State as the School Funding Reform Act of 2008 (“SFRA”).

Unfortunately, now ten years since SFRA was implemented, it remains clear that Defendants have continuously failed to comply with their obligations to ensure that the Jersey City Board of Education (“JCBOE”) is funded under SFRA at a level necessary to provide its students with the proper education to which they are entitled. JCBOE has been fully funded at a constitutionally required level in only the first year SFRA was implemented - the 2008-09 school year. Since that first year, JCBOE has steadily been slipping further and further below adequacy. And this year, Defendants took steps to ensure that JCBOE falls further below adequacy, implementing recent amendments to SFRA which will eliminate in excess of \$795 million in state aid to JCBOE over the next five years. In the upcoming 2019-20 school year alone, JCBOE’s state aid has been cut by over \$27 million, leading to the impending termination of

over 400 teachers and support staff, and the elimination of special education, extra-curricular and after-school programs.

If the recent amendments to SFRA are permitted to be implemented, resulting in millions of dollars in additional reductions in state aid, the calamity that would ensue would be insurmountable. Drastic cuts would have to be made, eliminating teaching and support positions, and vital programs that currently ensure that an entire generation of JCBOE students achieve the educational standards necessitated by the New Jersey Constitution. These negative impacts would follow tens of thousands of JCBOE students for the rest of their lives, severely reducing their chances of being accepted into college or other secondary schooling and hindering their ability to be constructive members of the work force. JCBOE students are a diverse group, with a large percentage of children coming from low income households with unique socio-economic issues - including crime, poverty, limited English proficiency and mental health demands - that require additional services, including subsidized meals, special education and out of district placements due to Individualized Education Plans. With cuts of these proportions, it is easy to see how these recent amendments would wipe out all the progress that has been made as a result of school funding reforms stemming from decades of litigation.

Thus, JCBOE and a Jersey City student, E.H., along with his mother Shanna Givens (all plaintiffs collectively referred to as "Plaintiffs") now seek preliminary injunctive relief to maintain the *status quo* that existed prior to the SFRA amendments, in order to ensure that the multitude of Jersey City students who face these devastating cuts will not be harmed pending the Court's determination of this action. Even one child without a proper education is too many-- the threat faced here will affect tens of thousands. For the reasons that follow, Plaintiffs will be able to establish the necessary Crowe factors for granting such relief and, therefore, are entitled

to an order enjoining the SFRA amendments from taking affect pending the outcome of this litigation.

STATEMENT OF FACTS

The Statement of Facts is set forth at length in the Verified Complaint filed with this brief.

LEGAL ARGUMENT

THIS COURT SHOULD TEMPORARILY AND PRELIMINARILY ENJOIN THE REDUCTIONS IN ADJUSTMENT AID TO JCBOE AS A RESULT OF RECENT AMENDMENTS TO SFRA.

By way of Order to Show Cause, Plaintiffs seek temporary and preliminary restraints to maintain the *status quo* among the parties until such time as Plaintiffs' rights under the Thorough and Efficient Clause of the Constitution are acknowledged and effectuated. A party may obtain immediate and preliminary relief during the pendency of an action through the use of an Order to Show Cause brought with a Verified Complaint. Rule 4:52-1(a). New Jersey has long recognized, in a wide variety of contexts, the power of the judiciary to "prevent some threatening, irreparable mischief, which should be averted until opportunity is afforded for a full and deliberate investigation of the case." Crowe v. DeGoia, 90 N.J. 126, 132 (1992) (*quoting Thompson v. City of Paterson*, 9 N.J. Eq. 624, 625 (E & A. 1854)). The "point of temporary relief is to maintain the parties in substantially the same condition 'when the final decree is entered as they were when the litigation began.'" Crowe, 90 N.J. at 134 (*quoting Peters v. Pub. Serv. Corp. of N.J.*, 132 N.J. Eq. 600 (Ch. 1942), *aff'd o.b.*, 133 N.J. Eq. 283 (E & A. 1943)).

The Supreme Court in Crowe firmly established equitable principles of law relating to preliminary restraints by outlining the prerequisites to the issuance of injunctive relief. Crowe, 90 N.J. at 132-34. To obtain a temporary and/or preliminary injunction, the applicant must establish the following: (1) that the applicant will suffer irreparable injury if the relief is denied; (2) that the applicant's claim is based on a settled legal right; (3) that the applicant has made a

preliminary showing of a reasonable probability of ultimate success on the merits; and (4) that the balance of the equities weighs in favor of granting preliminary relief to maintain the *status quo* pending the outcome of a final hearing. Id.

Courts will, however, more liberally view these prerequisites when the injunctive relief is sought to preserve the *status quo* during the pendency of a legal proceeding. *See Waste Management of N.J., Inc. v. Union County Util. Auth.*, 399 N.J. Super. 508, 519, 20 (App. Div. 2008). The Appellate Division has explained as follows:

...although it is generally understood that all the Crowe factors must weigh in favor of injunctive relief, **a court may take a less rigid view than it would after a final hearing when the interlocutory injunction is merely designed to preserve the status quo.** The issuance of an interlocutory injunction must be squarely based on an appropriate exercise of sound judicial discretion which – when limited to preserving the status quo during the suit’s pendency – may permit the court to place less emphasis on a particular Crowe factor if another greatly requires the issuance of the remedy.

Id. (emphasis added).

Here, although Plaintiffs seek nothing more than to preserve the *status quo*, they can nonetheless establish each of the requirements set forth by Crowe. First, the reduction and ultimate elimination of Adjustment Aid will cause irreparable damage to Plaintiffs, because the reduction in state aid will prevent JCBOE from being able to provide a thorough and efficient education to the students of JCBOE schools, including Plaintiff Given’s child. Additionally, Plaintiffs’ cause of action is likely to succeed and is predicated on settled legal rights supported by decades of school funding litigation, first in the Robinson v. Cahill line of cases and most recently in the Abbott v. Burke litigation. Indeed, in Abbott the New Jersey Supreme Court accorded students in poorer urban districts, including Jersey City, special constitutional status and, accordingly, imposed upon the State the burden of justifying its actions. Abbott v. Burke,

206 N.J., 332, 357 (2011) (“Abbott XXI”) Finally, Plaintiffs’ continued receipt of Adjustment Aid will cause minimal harm to Defendants, but its phasing out would greatly prejudice Plaintiffs. For these reasons, preliminary injunctive relief must be granted.

A. Temporary and Preliminary Injunctive Relief is Appropriate in this Case to Prevent Irreparable Harm to Plaintiffs and Maintain the Status Quo.

To obtain preliminary injunctive relief, Plaintiffs must demonstrate that they will suffer irreparable injury if the relief is denied. Crowe, 90 N.J. at 132. Injury is traditionally considered irreparable if monetary damages are inadequate or unavailable as a remedy. Id. at 133. In establishing the requisite element of “irreparable injury,” Plaintiffs must only show a “likelihood” of such harm. Thompson v. City of Paterson, 9 N.J. Eq. 624 (E & A. 1854); *see also* Wyrough & Loser, Inc. v. Pelmor Laboratories, Inc., 376 F.2d 543 (3d Cir.1967); Industrial Electronics Corp. v. Cline, 330 F.2d 480, 483 (3d Cir. 1964) (injunction should be granted if irreparable injury “would possibly result” if relief were denied). In other words, a movant must have no adequate remedy at law. Green v. Piper, 80 N.J. Eq. 288, 293 (Ch. 1912).

As set forth above, recent amendments to SFRA have been enacted which, if implemented, would result in a loss of Adjustment Aid to JCBOE in the 2019-20 school year in the amount of \$27,192,633.00.¹ N.J.S.A. 18A:7F-68(b)(1); *see also* Certification of Melvin Wynn (“Wynn Cert.”), ¶ 150. This cut in Adjustment Aid, if allowed to proceed, would have

¹ While the recent amendments to SFRA provide that Adjustment Aid for the 2019-20 school year would be reduced by thirteen percent, state aid notices providing the exact amount of, *inter alia*, Adjustment Aid that JCBOE would receive in the 2019-20 school year were only made available on March 8, 2019. *See* Complaint, ¶ 126. As such, it was not until that date that Plaintiffs first learned of the full impact of the recent amendments to SFRA, that they would lose over \$27 million in Adjustment Aid. Id. ¶ 116. In fact, JCBOE had previously estimated that the loss of Adjustment Aid for the 2019-20 school year would amount to approximately \$14 million. Id.

real and tangible negative effects on the education that JCBOE is able to provide its students, to say nothing of the increased reductions in, and the ultimate elimination of, Adjustment Aid by the 2024-25 school year.²

Notwithstanding JCBOE's local levy equaling \$134,854,704 towards its Local Fair Share ("LFS"), representing an 8.43% increase over its 2018-19 contribution (see Wyns Cert., ¶ 155), the loss of \$27,192,633.00 stemming from the phase out of Adjustment Aid necessitates making difficult cuts to JCBOE's instructional and support staff in order to balance its budget. The reduction of Adjustment Aid in the 2019-20 school year, if permitted to be implemented, would directly result in JCBOE cutting 410 jobs, of which 370 are instructional positions and 40 are instructional support positions. See Complaint, ¶ 135. These instructional positions include, but are not limited to, crisis intervention teachers, kindergarten teachers, elementary school teachers, librarians, middle school teachers in a variety of subjects, high school teachers in a variety of subjects, and special education teachers throughout JCBOE's schools. Id. at ¶¶ 135(a)-(jj). The forty instructional support staff positions that will be eliminated as a direct result of the phase out of Adjustment Aid include guidance counselors, job placement coordinators, principals, assistant principals, nurses, social workers, and supervisors. Id. at ¶¶ 135(kk)-(ss). With the loss of 410 instructional and support staff, JCBOE will be unable to maintain its current roster of courses and programs, requiring cuts in these areas. Id. at ¶ 136. Class sizes will increase and the constitutionally mandated compliance with Common Core Curriculum Standards ("CCCS") will not be achieved. These reductions in resources necessary to provide a thorough and efficient education will have a direct negative impact on graduation rates and test scores. Id. at ¶ 138-

² Through 2024-25, it is estimated that JCBOE will cumulatively lose at least \$795 million in Adjustment Aid as a result of the recent amendments to SFRA. Wyns Cert., ¶ 149.

139. These harms will not be felt by JCBOE students in this single year that cuts are made, but will follow them throughout their remaining time in school, ultimately impacting their ability to participate in the workplace. Such harms are immediate, irreparable, and not remedied by monetary damages.

These cuts, and the harms they will cause to JCBOE students, must not be viewed in a vacuum. Instead, the impacts of these cuts to Adjustment Aid and JCBOE falling further below the Adequacy Budget should be viewed through the historical lens of JCBOE being funded below the Adequacy Budget every year since the 2009-10 school year. See Wyns Cert., ¶ 15. The sum of JCBOE's Adequacy Budget deficit since 2009 exceeds half a billion dollars, all incurred while JCBOE was under State control. Id. at ¶ 142. This deficit has caused JCBOE's staffing levels for many positions to be well below those set forth in SFRA's models developed to provide the number of particular instructional and support staff positions necessary to comply with CCCS and provide a thorough and efficient education. See Complaint, ¶¶ 140-192. Consequently, the cuts which are necessary as the direct result of the reduction in Adjustment Aid in the 2019-20 school year will only exacerbate JCBOE's staffing problems and it being out of compliance with the models setting forth the level of staff necessary to provide a thorough and efficient education to students in New Jersey. Increased funding, not a reduction as Defendants are currently imposing on JCBOE, is needed for JCBOE's students to receive a thorough and efficient education and to avoid the lifelong irreparable harms which stem from not receiving same.

The Court in Abbott v. Burke, 149 N.J. 145 (1997) ("Abbott IV") recognized the connection between class size and the quality of education received by students, citing Richard J. Murnane, Interpreting the Evidence on 'Does Money Matter?', 28 Harv. J. on Legis. 457 (1991) (finding that money, if spent prudently on such things as teachers and class-size reduction,

has a substantial effect on education). 149 N.J. at 193. Additionally, the State carried out extensive research regarding SFRA's determination of the funding necessary to provide students with a meaningful opportunity to achieve the CCCS, the level of education that defines and satisfies the constitutional standard of "thorough and efficient" education. Abbott v. Burke, 196 N.J. 544, 552-553 (2008) (Abbott XIX). The Adequacy Budget, and the calculations leading to the Adequacy Budget, were developed to ensure sufficient funding to educate students to the CCCS standards and to fund extracurricular and co-curricular activities necessary to provide a thorough and efficient education. Abbott v. Burke, 199 N.J. 140, 153 (2009) ("Abbott XX").

The elimination of 410 teaching staff, special education staff, instructional support staff, and the elimination of supporting programs as a result of the loss of Adjustment Aid for the 2019-20 school year will cause irreparable damage to the students of JCBOE. While the direct harm caused to JCBOE is monetary in nature, in the form of the \$27,192,633 cut of Adjustment Aid, this harm cannot be compensated by later payment of these lost funds.³ These cuts are

³ It is anticipated that Defendants might argue that the payroll tax statute, recently amended to permit Jersey City to impose a maximum 1% payroll tax, the revenue from which would be provided for school funding (N.J.S.A. 40:48C-15), and the payroll tax ordinance passed by Jersey City imposing such a tax (see Complaint, Ex. C), mitigates against the loss of Adjustment Aid. Such an argument, however, is not persuasive for several reasons. First, it does not appear that any verifiable estimates have been provided regarding the amount of revenue the payroll tax is anticipated to generate per year, leading one to wonder if it will be sufficient to even cover this first step of the Adjustment Aid phase out. See Wyns Cert., ¶ 179. Secondly, JCBOE's tentative budget for the 2019-20 school year was released on March 20, 2019. See Wyns Cert., Ex. X. As no money has been collected from the payroll tax to date, no revenue from the payroll tax is included in the budget, notwithstanding that the loss of Adjustment Aid in excess of \$27 million is assured and must be included in JCBOE's budget. Therefore, JCBOE is forced to implement a balanced budget for the 2019-20 school year, along with the associated cuts to teachers, staffing and programs, which reflects a \$27 million loss of Adjustment Aid without the inclusion of any revenue generated by the payroll tax. Finally, the payroll tax and its imposition in Jersey City is currently the subject of on-going litigation in the matter captioned Mack-Cali Realty Corp., et al. v. State of New Jersey, et al., Docket No. HUD-L-4903-18. While the trial court in that matter recently granted Defendants' motions to dismiss, Plaintiffs have indicated

imminent and palpable, and will result in JCBOE's students' education not comporting with CCCS and therefore not being thorough and efficient. These days/months/years of unconstitutional educational services to JCBOE students cannot be remedied even if this Court ultimately rules in favor of Plaintiffs at the conclusion of this litigation. A restoration of funds would not permit these students to go back in time to receive the quality education they **should** have received in the first instance. While these students may ultimately benefit from a restoration of Adjustment Aid in future school years, the harms suffered in the 2019-20 school year cannot be remedied if these cuts are permitted to go into effect. It is not hyperbole to say that the unconstitutional level of education received in the 2019-20 school year would disadvantage the JCBOE students for life. Students have but one chance to get an education, be it elementary, middle or high school. Receiving a less than thorough and efficient education for even a single year, due to the elimination of 410 instructional and support staff positions as set forth above, could negatively impact a student life prospects in both the near and long term. That constitutes irreparable harm.

B. The Legal Rights Underlying Plaintiffs' Claims are Well-Settled, and Plaintiffs can make a Preliminary Showing of a Reasonable Probability of Success on the Merits.

Plaintiffs are entitled to a preliminary injunction because they can demonstrate a likelihood of success on their claims, which are based on settled legal rights. See Crowe, 90 N.J. at 133. This is especially the case since in Abbott, JCBOE students, along with their fellow students from other former Abbott/SDA districts, were characterized as effectively wards of the State entitled to special constitutional solicitude. Abbott XXI, 206 N.J. at 340. The result was

their intention to file an appeal. As a result, it is not assured that JCBOE will receive any school funding from payroll tax revenue in the foreseeable future.

that, contrary to the usual approach, the defendants, rather than the plaintiffs, were expected to bear the burden of proof. Id. at 357.

Additionally, Plaintiffs note that the requirement to demonstrate a reasonable probability of success on the merits is tempered by the well-established principle that mere doubt as to the validity of the claim is not an adequate basis to refuse to maintain the *status quo*. This is because the “purpose of temporary relief is to maintain the parties in substantially the same condition ‘when the final decree is entered as they were when the litigation began.’” See Crowe, 90 N.J. at 133. Even though the Crowe factors must be established clearly and convincingly to justify the court using its equitable power to enter a preliminary injunction, the “court may take a less rigid view than it would after a final hearing when the interlocutory injunction is merely designed to preserve the status quo.” Waste Management of New Jersey, Inc. v. Union County Utilities Authority, 399 N.J. 508, 520 (App. Div. 2008).

Plaintiffs’ legal rights are well settled regarding their continued entitlement to Adjustment Aid, a funding mechanism created by the State to assist it in providing a thorough and efficient education to the students of New Jersey. By phasing out Adjustment Aid over a five-year period, many former Abbott/SDA districts, including JCBOE, will fall further below adequacy. See Wyns Cert., ¶ 158. As demonstrated below, in falling further below adequacy, these districts move further from being able to provide the resources necessary for their students to achieve a thorough and efficient education.

The New Jersey Constitution states in pertinent part that “[t]he Legislature shall provide for the maintenance and support of a thorough and efficient [education].” N.J. Const. Article VIII, Section IV, Para. 1 (“Thorough and Efficient Clause”). The Thorough and Efficient Clause makes a thorough and efficient education a fundamental right for all New Jersey children and an

obligation of the State. Notwithstanding this constitutional obligation, the State has struggled for decades to enact and implement a school funding scheme that passes constitutional muster, first in Robinson v. Cahill and then in Abbott v. Burke, which commenced in 1981. *See Abbott XIX*, 196 N.J. at 549. The plaintiffs in the Abbott cases brought numerous challenges designed to hold the State accountable to its constitutional obligation of providing a thorough and efficient education to New Jersey's students. In the Court's view, "their success has enabled children in Abbott districts to show measurable educational improvement." Id.

At the heart of SFRA is the Adequacy Budget, which is the main constitutional metric for assuring that school districts have the minimum level of resources necessary for their students to obtain a thorough and efficient education. Abbott XX, 199 N.J. at 153, 172. To create the SFRA formula, the DOE used a methodology known as a Professional Judgment Panel ("PJP") to develop a new funding mechanism. Abbott XIX, 196 N.J. at 552. The PJP method was used to identify "desired performance standards, then develop[] prototypical model districts, and finally employ[] panels of experts to determine the resources needed to reach the selected performance standards in those districts." Id. The State's "use of the PJP methodology began with a determination that its performance standards would be the Core Curriculum Content Standards (CCCS), which were deemed in Abbott IV, [], to be a reasonable definition of a constitutionally sufficient, thorough and efficient education." Id. at 552-53. The PJP method, expert reports, and comments received during public hearings culminated in what became SFRA. Id. at 552-54.

The legislative findings contained within SFRA state that:

[The] formula established under this act is the product of a careful and deliberative process that first involved determining the educational inputs necessary to provide a high-quality education, including specifically addressing the supplemental needs of at-risk

students and those with limited English proficiency (LEP), and a determination of the actual costs of providing these programs. The formula provides adequate funding that is realistically geared to the core curriculum content standards, **thus linking those standards to the actual funding needed to deliver that content.**

N.J.S.A. 18A:7F-44(i) (emphasis added). Judge Doyne, acting as Special Master in the proceeding which eventually resulted in the Abbott XXI opinion, recognized that SFRA was created “to ensure all students are provided with a thorough and efficient education” and was developed “to determine what was **fiscally necessary to deliver a thorough and efficient education** to all of the school children of New Jersey.” Abbott XXI, 206 N.J. at 463 (emphasis added). In finding SFRA **facially** constitutional, the Court in Abbott XX made clear that SFRA and its education funding formula were only constitutional to the extent that SFRA ensured that the resources necessary for a thorough and efficient education, defined by CCCS, are provided. Abbott XX, 199 N.J. at 170. These holdings lead to the inescapable conclusion that funding at the Adequacy Budget level is what is necessary for the State to comply with its constitutional mandate to provide a thorough and efficient education. Otherwise, the Adequacy Budget would be meaningless.

Believing that it had finally formulated and enacted a statute providing the funding necessary for a thorough and efficient education, the State filed “a motion seeking declarations that the SFRA satisfies the requirements of the thorough and efficient education clause of the New Jersey Constitution and, further, that the Court’s prior remedial orders concerning the provision of a thorough and efficient education in the Abbott districts ‘are no longer necessary.’” Abbott XIX, 196 N.J. at 549. The result of Defendants’ motion was the Court’s opinion in Abbott XX, which held that SFRA was facially constitutional, subject to two conditions: 1) the State will continue to provide aid at the levels required by SFRA’s formula; and 2) the weights

comprising the SFRA formula, as well as its other operative parts, will be reviewed as required by SFRA three years after implementation. 199 N.J. at 146. The Supreme Court based its ruling on evidence adduced during remand proceedings before the special master and placed the burden of proof on the State to demonstrate that SFRA would provide the resources necessary for a thorough and efficient education. Id. at 151. The Court summarized the issue on remand as whether:

the State had devised a funding formula that provided sufficient support for the delivery of a thorough and efficient education as defined by the [CCCS], even when applied in the context of the peculiar difficulties faced by districts with concentrated levels of at-risk pupils []. **Only by meeting those concerns could SFRA replace the remedial orders governing the provision of education funding to Abbott districts.**”

Id. (emphasis added).

In analyzing SFRA and its formula, the Supreme Court discussed the different categories of aid that districts would be entitled to receive in order to reach their Adequacy Budget. One such type of aid analyzed, central to Plaintiffs’ Verified Complaint and the instant application, was Adjustment Aid. Id. at 157. As described by the Supreme Court:

Adjustment Aid is provided as transition assistance to SFRA’s funding methodology. It is designed to enable districts that are spending above their Adequacy Budget to maintain their existing level of spending without significant tax levy increases. Adjustment Aid is provided if the sum of a district’s Equalization Aid, Categorical Aid, Extraordinary Aid, and Transportation Aid is less than the district’s 2007-2008 spending, plus two percent. If a district’s current-year aid is less than that amount, the district receives Adjustment Aid for the difference.

Id. The Supreme Court further described the purpose of Adjustment Aid as a protective measure implemented to alleviate the stress placed on districts in funding their LFS through local tax levies. Id. at 165.

The State conceded at the time that it expected each district would **eventually** be able to contribute their LFS but that they were not expected to do so immediately. Id. at 166. Instead, Adjustment Aid would be provided while districts increased their local levy to equal their LFS. Id. at 155-56. The Court did not define how long it envisioned this “transition period,” the period of time it took districts to raise their local tax levy to equal LFS, to last.⁴ The Supreme Court, however, envisioned Adjustment Aid lasting for that period of time. Id. at 155. JCBOE continues to operate in this transition period, as its local tax levy has not yet matched its LFS, necessitating Adjustment Aid to ensure that JCBOE does not fall further below adequacy.⁵ *Wyns Cert.*, ¶ 145.

Several factors have led to JCBOE experiencing an extended transition period and they relate to how SFRA has been implemented. The first, and most relevant factor leading to the continued existence of this transition period, is the cap on annual tax increases for school districts. From 2008, the first year that SFRA was implemented, through July 12, 2010, the cap on tax increases was 4%. See former N.J.S.A. 18A:7F-38(a)(1). See Certification of Angelo J. Genova (“Genova Cert.”), Exs. A-B. From July 13, 2010 to July 23, 2018, the cap on tax increases was reduced to 2%. Former N.J.S.A. 18A:7F-38(a). Genova Cert., Ex. C. Therefore, notwithstanding the sizeable gaps that existed between JCBOE’s local levy and its LFS between 2008 and 2018, *Wyns Cert.*, ¶ 145, JCBOE was hampered by SFRA in its ability to close those

⁴ Interestingly, there is no requirement in SFRA for a district to raise its local levy to equal its LFS at any point.

⁵ While the Supreme Court apparently believed that Adjustment Aid would ensure that districts would be able to reach the Adequacy Budget even during the transition period, see *Abbott XX*, 199 N.J. at 165-66, application of SFRA has not yielded such results. In fact, other than the first year of SFRA implementation, JCBOE has consistently been funded below the Adequacy Budget, with the gap only deepening. *Wyns Cert.*, ¶ 15.

gaps. As a result, JCBOE had, and still has, a continuing need for Adjustment Aid. The pace at which JCBOE's LFS has increased relative to its overall Adequacy Budget has also contributed to JCBOE remaining in this "transition period" where Adjustment Aid is necessary. Between the 2008-09 school year, the school year SFRA was implemented, and the 2019-20 school year, JCBOE's Adequacy Budget increased more than thirty one percent (31%). Wyns Cert., ¶ 20. During that same time period, however, JCBOE's LFS growth has outstripped the growth of its Adequacy Budget, rising one hundred and forty two percent (142%). Wyns Cert., ¶ 21. This explosive growth in JCBOE's LFS, coupled with the historical cap on tax increases, has led to JCBOE's inability to raise its local levy to equal its LFS, resulting in the continued need for Adjustment Aid.

As JCBOE continues to operate in this transition period, the time is not yet ripe for the elimination of Adjustment Aid. In arguing for relief from the prior Abbott remedial orders and in support of the facial constitutionality of SFRA, the State argued that Adjustment Aid, along with Educational Adequacy Aid, was meant to bridge the gap between a district's LFS and its tax levy. Genova Cert., Ex. D, pg. 44-45. These aids, the State argued, "completely obviated the concern" of the plaintiffs to dramatically raise local levies to fund districts LFS." Id. at pg. 45. The State even argued that "no Abbott district was required to raise its local fair share." Id. at pg. 43. The State's own arguments in support of finding SFRA constitutional are directly contradicted by its recent actions in phasing out Adjustment Aid over the next five years. Adjustment Aid, the State argued to the Supreme Court, "is a **permanent part of the SFRA** and is just as reliable and non-discretionary as the other aid categories. Unlike the transition aid provided under the QEA, Adjustment Aid is not designed to phase-out over time, but rather to remain as a permanent safety net for Abbott districts as well as other districts." Id. (emphasis

added). The Supreme Court was apparently convinced by these arguments as it held that Adjustment Aid was necessary to ensure that districts could raise taxes slowly to increase their local levy. Abbott XX, 199 N.J. at 165.

Defendants' drastic cut in Adjustment Aid in the 2019-20 school year in the amount of \$27,192,633, along with the ultimate elimination of Adjustment Aid by 2024-25, is contrary to its assertions before the Supreme Court that Adjustment Aid is a permanent part of SFRA and dramatically changes the SFRA formula that the Supreme Court held to be facially constitutional. The Supreme Court made clear that, when it granted the State's motion for relief from prior Abbott remedial orders in Abbott XX, it was authorizing the implementation of SFRA put before it, not some "underfunded version of the formula." Abbott XXI, 206 N.J. at 341. When it found SFRA facially constitutional, the Supreme Court cautioned that:

Our approval of SFRA under the State Constitution relies, as it must, on the information currently available. But a state funding formula's constitutionality is not an occurrence at a moment in time; it is a continuing obligation. Today's holding issues in the good faith anticipation of a continued commitment by the Legislature and Executive to address whatever adjustments are necessary to keep SFRA operating at its optimal level...There should be no doubt that we would require remediation of any deficiencies of a constitutional dimension, if such problems do emerge.

Abbott XX, 199 N.J. at 146. These recent amendments to SFRA, phasing out Adjustment Aid, not only lead to an underfunded version of SFRA, they essentially create a new funding formula, at least as applied to JCBOE, since the amendments eliminate a still greatly needed aid category, not authorized by the Supreme Court and in direct violation of Abbott XX and Abbott XXI. Eliminating \$27,192,633 of state aid to JCBOE, through the first step in the phasing out of Adjustment Aid, is completely inconsistent with the Supreme Court order in Abbott XX that the State should make periodic adjustments to SFRA to ensure that it is operating at an optimal level

so that New Jersey students actually receive a thorough and efficient education. Abbott XX, 199 N.J. at 146.

Plaintiffs' arguments should not be misconstrued to mean that the Legislature lacks authority to amend SFRA. SFRA, and the Supreme Court, required a review of the SFRA formula's weights and other provisions after three years of implementation and every three years thereafter. Abbott XX, 199 N.J. at 146; *see also* N.J.S.A. 18A:7F-46(a), (b), -51(a), -55(f), -57(a), and -59. Additionally, the Supreme Court mandated that the Commissioner "study the limitations on growth levels in the districts and their abilities to meet the LFS." Abbott XX, 199 N.J. at 165. The State has submitted two Educational Adequacy Reports as required by SFRA and the Supreme Court, which were both well past the statutory deadline. Wyns Cert., ¶¶ 17-18. The third Educational Adequacy Report, due on September 1, 2018, has not been issued to date. Id. at ¶ 19. Notwithstanding the State's failure to comply with its obligations set forth in SFRA and by the Supreme Court regarding the issuance of the Educational Adequacy Reports, neither of the reports issued to date contains any mention of reductions in or elimination of Adjustment Aid. Id. at ¶ 18. Therefore, SFRA was not amended in a manner provided for by SFRA or the Supreme Court. Instead of the State periodically reviewing, and if need be revising, SFRA in a way that ensures districts have the resources necessary to provide a thorough and efficient education to students, the State has acted quite to the contrary. *See* Abbott XX, 199 N.J. at 146. This court's role is to guarantee that that is not permitted to stand, even temporarily.

In addition to the amendments to SFRA not being done in a way sanctioned by SFRA or the Supreme Court, the State bears the burden of demonstrating that, with a \$27,192,633.00 cut in funding this year and cuts in Adjustment Aid totaling \$795 million by the 2024-25 school year (*see* Wyns Cert., ¶ 149), JCBOE has received, and will receive, the funding necessary to

provide a thorough and efficient education to its students. See Abbott XIX, 196 N.J. at 550, 559. The cuts in funding, done through the amendments to SFRA, do not simply affect the statutory rights of the students of JCBOE, but rather impact Defendants' constitutional obligation to provide a thorough and efficient education, which has been the subject of well over twenty opinions and orders of the Supreme Court. Abbott XXI, 206 N.J. at 342-43. The Supreme Court has held repeatedly that a review of SFRA, and by extension any amendments to SFRA, "cannot begin with the familiar presumption [of constitutionality]." Abbott XX, 199 N.J. at 148. Instead, the Supreme Court has shifted the burden onto the State to demonstrate that changes in the school funding formula comport with the State's constitutional obligation to provide districts, such as JCBOE, with the resources necessary to provide a thorough and efficient education to its students. Id. at 149. As the reduction, and ultimate elimination, of Adjustment Aid brings JCBOE, along with most other former Abbott/SDA districts, even further below adequacy, Defendants cannot satisfy their burden that these changes provide a thorough and efficient education.

In the 2018-19 school year, JCBOE's funding was \$103,749,652 below the adequacy budget. See Wyns Cert., ¶ 140. For the 2019-20 school year, after the amendments to SFRA, which result in the reduction of Adjustment Aid of \$27,192,633.00 in that school year alone, JCBOE will be \$157,077,883 below adequacy resulting in it moving further from being able to provide the resources necessary for a thorough and efficient education of its students. See Wyns Cert., ¶ 158. As set forth in the preceding section, the cuts in Adjustment Aid in the 2019-20 school year alone will result in 410 positions being eliminated, including 370 instructional staff and 40 support staff.

The legal rights underlying Plaintiffs' claims are well settled in light of the holdings in Abbott XX and XXI pertaining to the State's obligation to fully fund SFRA as to former Abbott/SDA districts such as JCBOE, including the full funding of Adjustment Aid. Based on the foregoing, Plaintiffs have demonstrated that they can make a preliminary showing of a reasonable probability of success on the merits of their claims regarding the failure of the State to comply with its constitutional obligation of providing a thorough and efficient education to the students of JCBOE as a direct result of the reduction of Adjustment Aid in the 2019-20 school year.

C. Injunctive Relief is Appropriate in this Case Because the Balance of the Harm Favors the Granting of Preliminary Relief.

Finally, the Court must weigh the relative hardships to the parties in granting or denying relief. Crowe, 90 N.J. at 133-34. In order to obtain preliminary injunctive relief, these equities, on balance, must support the grant of preliminary relief to maintain the *status quo* pending the outcome of a final hearing. Id. at 134. In assessing the propriety of injunctive relief, courts generally weigh injury that the defendants would suffer, assuming the defendants are enjoined and then prevail at a final hearing, against the injury plaintiffs would suffer if no injunction issues and plaintiffs eventually prevail. Id.

In this case, the equities weigh heavily in favor of maintaining the *status quo* by granting the preliminary relief Plaintiffs seek. JCBOE's students, including Plaintiff Given's child, have only one chance to receive an education to prepare them for college, vocational school, and/or their professional lives in society. While numerous studies can be cited correlating education with an individual's potential future earnings, education is priceless. The harm that JCBOE's students will suffer if 410 instructional and support staff are eliminated, notwithstanding the price tag of these cuts equaling in excess of \$27 million cuts in Adjustment Aid, is immeasurable. If

Defendants fail to provide JCBOE's students, including Plaintiff Given's child, with Adjustment Aid to ensure that these students do not fall further below adequacy, these students will likely not develop the fundamental skills to be productive members of society, may fail to be admitted into the college or vocational school of their choice, or may drop out of school.

When measured against this harm, enjoining Defendants from reducing Adjustment Aid while this matter is litigated to the tune of \$ 27,192,633 for the 2019-20 school year is not fairly comparable. The State bears the unambiguous constitutional mandate to provide a thorough and efficient education to the students of JCBOE. N.J. Const. art. VIII, §. Adjustment Aid was to be provided while districts had the opportunity to increase their local levy to equal their LFS. Abbott XX, 199 N.J. at 165. It is not disputed that those conditions have not yet been met in the case of JCBOE. Consequently, Defendants cannot now complain of harm in complying with their constitutional duty and the rulings of the Supreme Court.

Defendants have known that education funding in JCBOE has been below adequacy for a decade. Indeed, the State has been in direct charge of JCBOE for virtually all of those years. Instead of remedying this problem to ensure that school funding was at the Adequacy Budget level and that JCBOE students were receiving a thorough and efficient education, Defendants instead have chosen to take a path moving school funding in JCBOE further below adequacy, to the unfortunate detriment of the students of JCBOE.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that a preliminary injunction be imposed and that Defendants be enjoined from reducing the amount of Adjustment Aid JCBOE is entitled to receive in the 2019-20 school year, specifically \$27,192,633, stemming from the implementation of SFRA's recently amended provisions at N.J.S.A. 18A:7F-68(b)(1).

s/ Angelo J. Genova

ANGELO J. GENOVA

Dated: April 29, 2019

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